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Monday
August 22, 1988

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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WASHINGTON, DC

WHEN: September 13; at 9:00 a.m.
WHERE: Office of the Federal Register,
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RESERVATIONS: Doris Tucker, 202–523–3419

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 1; Doc. No. 5770S]

General Administrative Regulations; Standards for Approval; Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith amends the General Administrative Regulations; Standards for Approval; Standard Reinsurance Agreement (7 CFR Part 400, Subpart L), effective for the 1988 and succeeding crop years, by providing a time frame in which to file a request for a reconsideration of any dispute arising under this Subpart and the Standard Reinsurance Agreement entered into by the Reinsured Company and FCIC prior to a final decision on such dispute, and by delegating the authority for such decisions to the Deputy Manager, FCIC. The intent of this rule is to: (1) Provide forty five days in which a Company may file a request for reconsideration of an initial determination by FCIC which the Company disputes, before a final decision is made in the matter; and (2) delegeting authority for decisions in these matters to the Deputy Manager, FCIC.

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1991.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Under the prior provisions of 7 CFR 400.149, any dispute arising between the company and the Corporations under the provisions of the Standards for Approval of the Reinsurance Agreement or the Agreement itself, must be submitted for decision to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. The Manager's decision in matters of dispute is final unless the Company requests reconsideration in writing within forty five days of the receipt of the decision.

This provision makes no allowance for the Company to review a determination by FCIC which the Company disputes *prior* to the decision by the Manager. Disputes should be resolved in a timely fashion following review and reconsideration. Under the present provision, excessive delays are being experienced prior to the decision made by the Manager.

In order for the Company to be able to review any finding by FCIC which has the potential of becoming a dispute, FCIC has determined that this provision should be amended to provide the Company forty five days from the date of notification to the Company of the finding being disputed in which to file a request for reconsideration. Further, when FCIC advises the Company of its final determination, the letter of advice will state that the Company has forty five days in which to file such a request, and to whom the request should be addressed. If the Company fails to file a request for reconsideration within forty five days, FCIC will presume the Company agrees with the determination and does not seek review.

In addition, FCIC has determined that, under the authority of the Manager to redelegate authority, requests for reconsideration will be addressed to the Deputy Manager, FCIC, and that the decision of the Deputy Manager in these matters will be final.

On Thursday, May 24, 1988, FCIC published a notice of proposed rulemaking in the **Federal Register** at 53 FR 18571, proposing to amend the General Administrative Regulations; Standards for Approval; Standard Reinsurance Agreement (7 CFR Part 400, Subpart L), effective for the 1988 and succeeding crop years, by providing a time frame in which to file a request for a reconsideration of any dispute arising under this Subpart and the Standard Reinsurance Agreement entered into by the Reinsured Company and FCIC prior to a final decision on such dispute, and by delegating the authority for such decisions to the Deputy Manager, FCIC.

The public was given 30 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, FCIC hereby adopts the rule published at 53 FR 18571 as a final rule.

List of Subjects in 7 CFR Part 400

Crop Insurance, Reinsurance agreement, Standards for approval.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance

Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Administrative Regulations (7 CFR Part 400), effective for the 1988 and succeeding contract years, in the following instances:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for 7 CFR Part 400 continues to read as follows:

Authority: 7 U.S.C. 1501–1520, as amended.

2. 7 CFR Part 400, Subpart L, is amended by revising § 400.149 to read as follows:

Subpart L—Reinsurance Agreement—Standards for Approval—Regulations for the 1988 and Subsequent Contract Years

* * * * *

§ 400.149 Disputes.

Initial findings under this Subpart and the Reinsurance Agreement will be made by the Corporation. The Corporation will advise the Company of those findings and request their input within 45 days of the determination. This time may be extended at the request of the Company if the Corporation agrees to the extension. At the expiration of the time period or, after receipt of the Company's input, the Corporation will issue a final determination denominated as "the determination of the Corporation." That determination will advise the Company of its rights under this section. The Company, if it disputes the Corporation's determination, must appeal that determination in writing, within forty-five days of the receipt of the determination, to the Deputy Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. The decision of the Deputy Manager will be final.

Any hearing provided by the Corporation will be of an informal nature and the rules of evidence will not apply. Pending final decision of the dispute, the company will proceed diligently with the performance of the Agreement, as required by the Corporation. Failure to appeal the Corporation determination within the time allowed, may result in Corporation offset of any amount found to be due the Corporation from funds which may otherwise be due the Company.

Done in Washington, DC, on August 16, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88–18991 Filed 8–19–88; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 456

[Doc. No. 5507S]

Macadamia Tree Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) adds a new Part 456 in Chapter IV of Title 7, Code to Federal Regulations to be known as the Macadamia Tree Crop Insurance Regulations (7 CFR Part 456), effective for the 1988 and succeeding crop years. The intended effected effect of this rule is to: (1) Prescribed procedures for insuring macadamia trees in counties approved by the Board of Directors of FCIC; and (2) provide for codification of the Macadamia Tree Crop policy of insurance in 7 CFR Part 456 in the Code of Federal Regulations.

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those precedures. The sunset review date established for these regulations is October 1, 1992.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On October 9, 1986, the Board of Directors of FCIC approved a resolution to authorize the introduction of crop insurance programs in the State of Hawaii for marketing by private insurance companies under an FCIC reinsurance agreement or an Agency Sales and Service Contract.

Hawaii is the only state without a crop insurance program and the Board, in authorizing the introduction of crop insurance protection to macadamia nut proceducers in the islands, is responding to a long standing interest in providing Hawaiian producers protection against loss of production from natural hazards.

On March 1, 1988, FCIC published a final rulemaking in the **Federal Register** at 53 FR 6115, prescribing regulations for insuring macadamia nuts. The provisions contained herein, applicable to macadamia trees, a completes the insurance plan for macadamia producers.

On Thursday, February 11, 1988, FCIC published a notice of proposed rulemaking in the **Federal Register** at 53 FR 4030, to prescribe procedures for insuring macadamia trees in counties approved by the Board of Directors of FCIC and provide for codification of the Macadamia Tree Crop policy of insurance at Title 7, Part 456 of the Code of Federal Regulations (CFR).

The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, FCIC adopts the rule published at 53 FR 4030 as a final rule with minimum changes for clarification, as set our herein.

Because the 1988 crop year for Macadamia tree insurance in already

well underway, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 456

Crop insurance, Macadamia trees.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby issues a new Part 456 in Chapter IV of Title 7, Code of Federal Regulations, to be known as 7 CFR Part 456—Macadamia Tree Crop Insurance Regulations, effective for the 1988 and succeeding crop years, to read as follows:

PART 456—MACADAMIA TREE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1988 and Succeeding Crop Years

Sec.

456.1 Availability of macadamia tree crop insurance.
456.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
456.3 OMB control numbers.
456.4 Creditors.
456.5 Good faith reliance on misrepresentation.
456.6 The contract.
456.7 The application and policy.

Authority: 7 U.S.C. 1506, 1516.

Subpart—Regulations for the 1988 and Succeeding Crop Years

§ 456.1 Availability of macadamia tree crop insurance.

Insurance shall be offered under the provisions of this subpart on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (the Act). The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing substantially the same terms and conditions as the contract set out in this part. No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured. If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums.

An insured whose contract with the Corporation or with a Company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility. All applicants for insurance under the Act must advise the agent, in writing at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 456.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for macadamia trees which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 456.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 456.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 456.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the macadamia tree insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 456.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation (or by a Company reinsured by the Corporation) of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the macadamia tree crop as provided in the policy. The contract shall consist of the application, the policy and the county actuarial table. This contract is not continuous. Application must be made annually for the macadamia tree contract on or prior to the sales closing date established by the actuarial table. The forms referred to in the contract are available at the applicable service offices.

§ 456.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the macadamia tree crop as landlord or owner-operator if the person wishes to participate in the program. The application must be submitted to the Corporation (or the Company reinsured by the Corporation) at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) A contract in the form provided for in this subpart will be in effect as a macadamia tree contract applicable for one year. A new application must be submitted for each subsequent crop year.

(d) The application for the 1988 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Macadamia Tree Crop Insurance Policy for the 1988 and succeeding crop years are as follows:

Macadamia Tree Crop Insurance Policy

(This is not a continuous contract. Refer to Section 15)

Agreement to Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable damage to macadamia trees resulting from the following causes occurring within the insurance period:

(1) Fire;

(2) Volcanic eruption; or

(3) Wind;

Unless those causes are excepted, excluded, or limited by this policy or the actuarial table.

b. We will not insure against any loss due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;

(2) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good macadamia nut orchard practices; or

(4) Any cause not specified in subsection 1.a. as an insured cause of loss.

2. Crop, acreage, and share insured.

a. The crop insured will be all macadamia trees grown for the production of macadamia nuts on insurable acreage which has been annually inspected and accepted by us and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be all macadamia tree acreage designated as insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord or owner-operator in the insured macadamia trees at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your insured share will not exceed your share at the time of loss.

d. We do not insure any macadamia trees:

(1) If the orchard maintenance practices carried out are not the same as those for which the guarantee and premium rate have been established;

(2) Of a type or variety not established as adapted to the area or excluded by the actuarial table;

(3) Interplanted with another crop;

(4) Which we consider not acceptable; or

(5) That are less than one year of age when the insured period begins.

e. We may limit the insurable acreage to any acreage limitation, established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, variety, and practice.

You must report on our form by unit:

a. all the acreage of macadamia trees in the county in which you have a share;

b. your share at the time insurance attaches;

c. the types of trees;

d. the number of trees set out;

e. the dates on which the trees were set out or grafted; and

f. If more than 10 percent of the trees on any unit has been replaced in the previous five crop years, the date of replacement.

You must designate separately any acreage that is not insurable. This report must be submitted annually prior to the time insurance attaches. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time insurance attaches, to carry out a good macadamia orchard irrigation practice. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report within 15 days after the time insurance attaches, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amounts of insurance and coverage levels.

a. The amounts of insurance and coverage levels are contained in the actuarial table.

b. If, at the time insurance attaches, the number of bearing trees over five years old on a unit is less than 90 percent of the number of trees that would comprise a complete planting pattern, the amount of insurance will be reduced 1 percent for each percent below 90 percent.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share on the date insurance attaches.

b. Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its agenices.

7. Insurance period.

Insurance attaches on insurable acreage for each crop year on January 1. However, if we accept your application for insurance after January 1, insurance does not attach until the tenth (10th) day after you sign and submit a properly completed application. Insurance will not attach to any acreage determined by us, after inspection, to be unacceptable. Insurance ends at the earlier of:

a. Total destruction of the macadamia trees; or

b. December 31 of the crop year.

8. Notice of damage or loss.

a. You must give us written notice without delay if damage resulting in probable loss occurs at any time during the insurance period. Such notice must include the dates and causes of damage.

b. If you are going to claim an indemnity on any unit, we must be allowed to inspect all insured trees before any pruning or tree removal.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than sixty (60) days after the earlier of:

(1) Total destruction of the trees on the unit; or

(2) December 31 of the crop year.

b. We will not pay any indemnity unless you:

(1) Furnish all records we require concerning all trees on the unit;

(2) Show that any damage to the trees has been directly caused by one or more of the insured causes during the insurance period; and

(3) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance per acre;

(2) Multiplying this result by the applicable percent of loss, which is determined for:

(a) Coverage level 3 by subtracting 25 percent from the actual percent of damage and dividing the result of 75 percent.

(b) Coverage level 2 by subtracting 35 percent from the actual percent of damage and dividing the result by 65 percent; or

(c) Coverage level 1 by subtracting 50 percent from the actual percent of damage and dividing the result by 50 percent; and

(3) Multiplying the result for the applicable coverage level by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the amount of insurance on the unit will be computed on the information you reported, but all of the insurable acreage planted, whether or not reported as insurable, will count against the amount of insurance.

e. The total amount of indemnity will include both trees damaged and trees destroyed due to an insurable cause.

(1) Any grove with over 80 percent actual damage will be determined to be 100 percent damaged.

(2) Any percentage of damage by uninsured causes will not be included in the percent of damage.

(3) If you elect to exclude fire as an insured cause of loss and the macadamia trees are damaged by fire, appraisals will be made in accordance with Form FCI–78–A, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. It is our policy to pay your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. However, we will pay simple interest computed on the net indemnity ultimately found to be due to you if the reason for non-payment is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. Interest due will be paid from and including the 61st day after the date you sign, date, and submit to us the properly completed claim-for-indemnity form.

The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the trees on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us, if at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to an indemnity-insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation (Recovery of loss from a third party).

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay for your loss, then your right of recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to orchard.

You must keep, for three years after the time of loss, records of the trees destroyed or damaged on each unit, including separate records showing the same information for any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply or a determination that no indemnity is due. Any person designated by us will have access to such records and the orchard for purposes related to the contract.

15. Life of contract.

a. This contract will be in effect for the crop year specified on the application.

b. The term of this contract begins and ends as shown in Section 7 of this policy. We are under no obligation to send you any renewal notice or other notice that the contract term is ending, and the receipt by you of any such notice is not a waiver of this provision.

c. This contract will not be renewed for any successive contract term if any amount due us on this or any other contract with you is not paid on or before the termination date. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. Since the premium must be paid prior to insurance attaching, the termination date is the date insurance attaches.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. This contract will automatically terminate at the end of the current contract period.

16. Meaning to terms.

For the purposes of macadamia tree crop insurance:

a. *"Age"* means the number of years after the later of when the trees have been set out or grafted. Age determination will be made for the unit on January 1 of each crop year.

b. *"Actuarial table"* means the forms and related materials for the crop year approved by us. The actuarial table is available for public inspection in your service office and shows the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding macadamia tree insurance in the county.

c. *"County"* means the county shown on the application.

d. *"Crop year"* means the period beginning with the date insurance attaches and extending through December 31 of the same calendar year and will be designated by the calendar year in which insurance attaches.

e. *"Destroyed"* means damage to trees to the extent that we determine that replacement is required.

f. *"Grafting"* means to unite a macadamia tree shoot to an established macadamia tree root stock for future production of macadamia nuts.

g. *"Insurable acreage"* means the land classified as insurable by us and shown as such by the actuarial table.

h. *"Insured"* means the person who submitted the application accepted by us.

i. *"Person"* means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision, or agency of a state.

j. *"Planting Pattern"* means the spacing trees on a uniform geometrical basis so that each tree is a uniform distance from other trees and resulting in a specific number of trees per acre.

k. *"Service office"* means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. *"Unit"* means all insurable acreage of macadamia trees in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) In which you are a joint owner.

Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

17. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

18. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of, or appeal those determinations in accordance with the Appeal Regulations (7 CFR Part 400, Subpart J).

19. Notices.

All notices required to be given by you must in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC on August 16, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-18992 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 989

[FV-88-105]

Raisins Produced From Grapes Grown in California; Changes to the Supplementary Rules and Regulations (Deletion of the Weight Adjustment (Moisture) System) and Revision of the Schedule of Payments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule invites comments on changes to the supplementary rules and regulations and the schedule of payments to the California raisin marketing order. The changes delete the weight adjustment (moisture) system for Natural (sun-dried) Seedless and Monukka raisins, make conforming changes to reflect such deletion and make a conforming change under the schedule of payments. These changes were recommended by the Raisin Administrative Committee (Committee), the agency responsible for local administration of the marketing order. These changes would improve the operation of the marketing order.

DATES: Interim final rule effective August 22, 1988. Comments which are received by September 21, 1988, will be considered prior to any finalization of this interim final rule.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085-S, P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 989 (7 CFR Part 989), as amended, regulating the handling of raisins produced from grapes grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers of raisins subject to regulation under the raisin marketing order, and approximately 5,000 raisin producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of raisins may be classified as small entities.

This interim final rule invites comments on changes to the supplementary rules and regulations and the schedule of payments of the raisin marketing order. These changes were recommended by the Committee and delete the weight adjustment (moisture) system for Natural (sun-dried) Seedless and Monukka raisins, make conforming changes to other order provisions to reflect the deletion of the system and make an additional conforming change in Subpart—Schedule of Payments.

The first amendment deletes the weight adjustment (moisture) system for Natural (sun-dried) Seedless and Monukka raisins. This system was established on September 4, 1985 (50 FR 35769). The weight adjustment (moisture) system encourages Natural (sun-dried) Seedless and Monukka raisin producers to deliver lower moisture raisins (i.e., in the 10 to 14 percent moisture range) to handlers for processing. The industry had found that higher maturity raisins of these varietal

types with a moisture level in excess of 14 percent tended to sugar if held in storage for extended periods of time. Sugaring is an undesirable condition in raisins because the raisins feel gritty, rather than soft and pliable, when eaten.

Under this system, producers delivering raisins in the lower percentage range (i.e., 13.9 percent and lower) receive a weight credit to their lots of raisins. In turn, producers that deliver raisins in the higher percentage range (i.e., 14.1 to 16 percent) receive a weight reduction on such lots. There is no dockage or adjustment on raisins containing 14 percent moisture. Raisins above the 16 percent moisture level are considered off-grade and are returned to the producer or reconditioned by the handler to bring the lot up to acceptable quality standards.

Producers receive payments on their deliveries of raisins based on the creditable fruit weight of each lot. Therefore, producers that have received a weight credit for delivering drier raisins receive a larger payment per lot than those producers delivering raisins in a higher percent moisture range.

As mentioned above, the industry had found that higher maturity Natural (sun-dried) Seedless and Monukka raisins with a moisture level in excess of 14 percent tended to sugar if held in storage for extended periods of time. However, since the advent of the program in 1985, the average moisture level of such lots of Natural (sun-dried) Seedless and Monukka raisins delivered to handlers has dropped 1.2 percent from 11.71 to 10.52 percent. In addition, an average of only 5.01 percent of the lots of such raisins delivered since the onset of this program have been in the 14 to 16 percent moisture range. Thus, producers are delivering drier raisins.

The Committee has therefore recommended that the weight adjustment (moisture) system be discontinued and deleted from the rules and regulations. The weight adjustment (moisture) portion of the system is not considered necessary as it was in 1985, since producers are delivering drier raisins. The Committee has also determined that the current program is cumbersome and difficult to administer. This action also makes conforming changes to other provisions in the regulations to reflect the deletion of the weight adjustment (moisture) system (§§ 989.210, 989.212 and 989.213).

The second amendment changes § 989.401(a)(1) to reflect the use of "creditable weight" as the basis of payment for receiving, storing, fumigating and handling costs paid to handlers rather than the "natural condition weight" at the time of acquisition as currently stated in the regulations. This is a conforming change which should have been implemented when the weight dockage and adjustment (moisture) systems were originally established (50 FR 35769, September 4, 1985).

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendation submitted by the Committee and other available information, it is found that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because the crop year for raisins began August 1, 1988, and this rule should be in place as soon as possible to apply to as much of the crop year as possible.

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR Part 989 is amended as follows:

Note: These sections will appear in the Code of Federal Regulations.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Supplementary Regulations

2. Section 989.210 is revised to read as follows:

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage system.

(a) *General.* A handler may acquire as standard raisins lots of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, Sultana, Zante Currant and Muscat (including other raisins with seeds) raisins under the weight dockage provisions described in §§ 989.212 and 989.213. The creditable weight of each lot of raisins acquired in this manner shall be that obtained by multiplying the net weight of the raisins in the lot by the appropriate factor(s) from the appropriate dockage table(s) included in those sections.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for raisins of the varietal types specified in paragraph (a) of this section for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage system.

(c) *Reserve tonnage.* A handler may hold as reserve tonnage raisins, any lot, or portion thereof, of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage system: *Provided,* That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of raisins of the varietal types specified in paragraph (a) of this section acquired by a handler pursuant to a weight dockage system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by such handler with respect to reserve tonnage raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of *Subpart—Schedule of Payments.*

(f) *Identification.* Any lot of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage system shall be so identified by the inspection service affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of an inspector of the inspection service, or authorized Committee personnel.

(g) *Application of dockage factors.* A lot of raisins acquired which may be subject to both a substandard and maturity dockage factor shall have only the highest of the two dockage factors applied to determine the creditable weight.

§ 989.211 [Removed]

3. Section 989.211 is removed.

4. Section 989.212 is amended by revising paragraph (a) to read as follows:

§ 989.212 Substandard dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless and Monukka raisins containing from 5.1 through 10.0 pecent, by weight, of substandard raisins may be acquired by a handler under a weight dockage system. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing more than 12 percent, by weight, of substandard raisins under a dockage system. The creditable weight of each lot of raisins acquired under the substandard dockage system shall be obtained by multiplying the net weight of the lot of raisins by the applicable dockage factor from the appropriate dockage table prescribed in paragraph (b) or (c) of this section.

* * * * *

5. Section 989.213 is amended by revising paragraph (a) to read as follows:

§ 989.213 Maturity dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, and Monukka raisins containing from 40.0 through 49.9 percent, by weight, of well-matured or reasonably well-matured raisins may be acquired by a handler under a weight dockage system. The creditable weight of each lot of raisins acquired under the maturity dockage system shall be obtained by multiplying the net weight of the lot of raisins by the applicable dockage factor from the dockage table prescribed in paragraph (b) of this section.

* * * * *

Subpart—Schedule of Payments

6. Section 989.401 is amended by revising paragraph (a)(1) to read as follows:

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

(a) *Payment for crop year of acquisition.* (1) *Receiving, storing, fumigating, and handling.* Each handler shall, beginning August 1, 1983, be compensated at the rate of $38.75 per ton (creditable weight at the time of acquisition) for receiving, storing, fumigating, and handling the reserve tonnage raisins, as determined by the final reserve tonnage percentage, acquired during a particular crop year and held by the handler for the account of the Raisin Administrative Committee during all or any part of the same crop year, and released after February 13, 1984.

* * * * *

August 17, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-18945 Filed 8-19-88; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 86F-0363]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the use of a membrane component. The membrane component is composed primarily of a cross-linked polyetheramine, identified as the copolymer of epichlorohydrin, 1,2-ethanediamine, and 1,2-dichloroethane, although the surface of this membrane component is the reaction product of the cross-linked polyetheramine with 2,4-toluenediisocyanate. The membrane component is used as the food-contact surface of a reverse osmosis membrane that is used in the processing of liquid food. This action responds to a petition filed by Fluid Systems, Division of UOP, Inc.

DATES: Effective August 22, 1988; objections and requests for a hearing by September 21, 1988.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-335), 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 29, 1986 (51 FR 34503), FDA announced that a petition (FAP 6B3955) had been filed by Fluid Systems, Division of UOP, Inc., San Diego, CA 92131, proposing that § 177.2550 *Reverse osmosis membranes* (21 CFR 177.2550) be amended to provide for the safe use of a cross-linked polyetheramine, identified as the copolymer of epichlorohydrin, 1,2-ethanediamine and 1,2-dichloroethane, whose surface is the reaction product of this copolymer with 2,4-toluenediisocyanate. The membrane component is used as the food-contact surface of reverse osmosis membranes used in processing liquid food.

FDA, in its evaluation of the safety of this additive, has reviewed the safety of both the additive itself and the starting materials used to manufacture the additive. Although the additive itself has not been found to cause cancer, it may contain minute amounts of three starting materials (epichlorohydrin, 1,2-dichloroethane, and 2,4-toluenediisocyanate) as byproducts of its production. These chemicals have been shown to cause cancer in test animals. In addition, 2,4-toluenediamine, formed by the hydrolysis of 2,4-toluenediisocyanate, has been shown to cause cancer in test animals and may be present in the additive. Residual amounts of reactants and manufacturing aids, such as epichlorohydrin, 1,2-dichloroethane, 2,4-toluenediisocyanate, and 2,4-toluenediamine, are commonly found as contaminants in chemical products, including food additives

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H. Rept. 2284, 85th Cong., 2d Sess. 4 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the food additive amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the Federal Register of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis. An additive that has not been shown to cause cancer but that contains a carcinogenic impurity may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F. 2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use

FDA estimates that the petitioned use of the additive (a cross-linked polyetheramine, manufactured using epichlorohydrin, 1,2-ethanediamine and 1,2-dichloroethane, whose surface is the reaction product of this polyetheramine with 2,4-toluenediisocyanate) will result in extremely low levels of exposure to this additive. The agency calculated the estimated daily intake of the additive based on several factors, including the migration of the additive under the most severe intended conditions of use and the probable concentration of the additive in the daily diet from its use in contact with food. The estimated daily dietary exposure to the polyetheramine component of the additive is 0.1 parts per billion (0.3 micrograms per person per day for a 60 kilogram person) while the exposure to the polyurethane cross-linked surface layer of the additive is 0.01 parts per billion (0.03 micrograms per person per day for a 60 kilogram person).

FDA does not ordinarily consider chronic testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here.

As stated above, the additive may contain epichlorohydrin, 1,2-dichloroethane, 2,4-toluenediisocyanate, and 2,4-toluenediamine, substances that have been shown to cause cancer in test animals. These impurities may be present as a result of manufacturing procedures used to produce the additive. Because the additive itself has not been shown to cause cancer, the Delaney anticancer clause (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) does not apply to it.

FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemicals that may be present as impurities in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see e.g., 49 FR 13018 and 13019; April 2, 1984). This risk evaluation of the carcinogenic impurities has two aspects: (1) Assessment of the worst-case exposure to the impurities from the proposed use of the additive and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. 1,2-Dichloroethane

Based on the fraction of the daily diet that may be in contact with surfaces containing the additive, as well as the level of 1,2-dichloroethane that may be present in the additive, FDA estimated the hypothetical worst-case exposure to 1,2-dichloroethane from the use of the additive to be 2.0 picograms per person per day (Ref. 3). The agency used data from a National Cancer Institute (NCI) carcinogenesis bioassay (Ref. 4) on 1,2-dichloroethane fed to rats to estimate the upper bound level of lifetime human risk from the proposed use of the additive. The results of the bioassay on 1,2-dichloroethane indicated that the material was carcinogenic for rats under the conditions of the study. The test material caused significantly increased incidences of carcinomas at multiple sites in the rats, which included the stomach, mammary gland, and circulatory system.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,2-dichloroethane. The Committee further concluded that the NCI bioassay provided the appropriate basis on which to calculate an estimate of the upper bound level of lifetime risk from potential exposure to 1,2-dichloroethane stemming from the proposed use of the additive.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine, to a reasonable certainty, whether any harm will result from the proposed conditions and levels of use of the food additives.

Based on a worst-case exposure of 2.0 picograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from the potential exposure to 1,2-dichloroethane from the use of the subject additive is 3.5×10^{-13} or less than 1 in 2.9 trillion (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 1,2-dichloroethane is expected to be substantially less than the estimated daily intake and, therefore, the calculated upper bound limit of risk would be less. Thus the agency concludes that there is a reasonable certainty of no harm from the exposure to 1,2-dichloroethane that might result from the proposed use of the additive.

B. Epichlorohydrin

Based on the fraction of the daily diet that may be in contact with surfaces containing the additive, as well as the level of epichlorohydrin that may be present in the additive, FDA estimated the hypothetical worst-case exposure to epichlorohydrin from the use of this additive to be 4.0 picograms per person

per day (Ref. 3). The agency used data from a Japanese carcinogenesis bioassay (Ref. 6) on epichlorohydrin fed to rats via their drinking water to estimate the upper bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of this additive. The results of the bioassay demonstrated that epichlorohydrin was carcinogenic for rats under the conditions of the study. The test material caused significantly increased incidences of stomach papillomas and carcinomas in the rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on epichlorohydrin. The committee further concluded that an estimate of the upper bound level of lifetime human risk from potential exposure to epichlorohydrin stemming from the proposed use of the additive could be calculated from the bioassay.

Based on a worst-case exposure of 4.0 picograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from the potential exposure to epichlorohydrin resulting from the use of the additive is 1.8×10^{-13} or less than 1 in 5.6 trillion (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to epichlorohydrin is expected to be substantially less than the estimated daily intake and, therefore, the calculated upper bound limit of risk would be less. Thus the agency concludes that there is a reasonable certainty of no harm from the exposure to epichlorohydrin that might result from the proposed use of the additive.

C. 2,4-Toluenediisocyanate and 2,4-Toluenediamine

Although 2,4-toluenediisocyanate is one of the starting materials used in the manufacture of the membrane component and may remain in the additive after its manufacture, any reacted 2,4-toluenediisocyanate would be hydrolyzed to 2,4-toluenediamine when the membrane component is exposed to water. Therefore, the agency's risk assessment was carried out only for 2,4-toluenediamine.

Based on the fraction of the daily diet that may be in contact with surfaces containing the additive, as well as the level of 2,4-toluenediamine that may be present in the additive, FDA estimated the hypothetical worst-case exposure to 2,4-toluenediamine from the use of the additive to be 4 nanograms per person per day (Ref. 3). The agency used data from a National Cancer Institute carcinogenesis bioassay (Ref. 7) on 2,4-toluenediamine fed to Fischer 344 rats and hybrid $B6C3F_1$ mice to estimate the upper bound level of lifetime human risk from the proposed use of this membrane. The results of the study indicated that female rats are the most sensitive to the carcinogenic effects of this compound, which induced neoplasms of the liver and mammary gland.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed the bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 2,4-toluenediamine. The Committee further concluded that an estimate of the upper bound level of lifetime human risk from potential exposure to 2,4-toluenediamine stemming from the proposed use of the additive could be calculated from the bioassay.

Based on a worst-case exposure of 4.0 nanograms per person per day, FDA estimates that the upper bound limit of individual lifetime risk from the potential exposure to 2,4-toluenediamine resulting from the use of additive is 1.2×10^{-18} or less than 1 in 83 million (Ref. 5). Because of numerous conservatisms in the exposure estimate, lifetime averaged individual exposure to 2,4-toluenediamine is expected to be substantially less than the estimated daily intake and, therefore, the calculated upper bound limit of risk would be less. Thus the agency concludes that there is a reasonable certainty of no harm from the exposure to 2,4-toluenediamine that might result from the proposed use of the additive.

D. Need for Specifications

The agency has also considered whether specifications are necessary to control the amounts of 1,2-dichloroethane, epichlorohydrin and 2,4-toluenediamine in the additive. The agency finds that specifications are not necessary for the following reasons: (1) Because of the low levels at which 1,2-dichloroethane, epichlorohydrin, and 2,4-toluenediamine may be expected to remain as impurities following production of the additive, the agency would not expect these impurities to become components of food at other than extremely small levels; and (2) the upper bound limit of lifetime risk from exposure to these impurities, even under worst-case assumptions, is very low, less than 1 in 2.9 trillion for 1,2-dichloroethane, less than 1 in 5.6 trillion for epichlorohydrin and less than 1 in 83 million for 2,4-toluenediamine.

E. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe, and that the regulation in § 177.2550(a) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

III. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 21, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the

objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogenicity Testing Programs," *in* "Food Safety: Where are we?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," *in* "Chemical Safety Regulation and Compliance," Edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24–33, 1985.

3. Memorandum from Food Additive Chemistry Evaluation Branch to Indirect Additives Branch, dated September 1, 1987, "FAP 6B3955—Fluid Systems Division of UOP, Inc., Reverse Osmosis Membranes."

4. "Bioassay of 1,2-dichloroethane for Possible Carcinogenicity," National Cancer Institute, NTP Technical Report No. 55, 1978.

5. Memorandum from the Quantitative Risk Assessment Committee to Dr. W. Gary Flamm, dated February 2, 1988, "Epichlorohydrin, 1,2-Dichloroethane and 2,4-Toluenediamine in Reverse Osmosis Membranes".

6. Konishi, Y., et al., "Forestomach Tumors Induced by Orally Administered Epichlorohydrin in Male Wister Rats," Gann, 71: 922–923, 1980.

7. "Bioassay of 2,4-Diaminotoluene for Possible Carcinogenicity," National Cancer Institute, NTP Technical Report No. 162, 1979.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Polymers.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 177.2550 is amended by revising paragraph (a) to read as follows:

§ 177.2550 Reverse osmosis membranes.

* * * * *

(a) *Identity.* For the purpose of this section, reverse osmosis membranes may consist of either of the following formulations:

(1) A cross-linked high molecular weight polyamide reaction product of 1,3,5-benzenetricarbonyl trichloride with 1,3-benzenediamine (CAS Reg. No. 83044–99–9) or piperazine (CAS Reg. No. 110–85–0). The membrane is on the food-contact surface, and its maximum weight is 62 milligrams per square decimeter (4 milligrams per square inch) as a thin film composite on a suitable support.

(2) A cross-linked polyetheramine (CAS Reg. No. 101747–84–6), identified as the copolymer of epichlorohydrin, 1,2-ethanediamine and 1,2-dichloroethane, whose surface is the reaction product of this copolymer with 2,4-toluenediisocyanate (CAS Reg. No. of the final polymer is 99811–80–0) for use as the food-contact surface of reverse osmosis membranes used in processing liquid food. The composite membrane is on the food-contact surface and its maximum weight is 4.7 milligrams per square decimeter (0.3 milligrams per square inch) as a thin film composite on a suitable support. The maximum weight of the 2,4-toluenediisocyanate component of the thin film composite is 0.47 milligrams per square decimeter (0.03 milligrams per square inch).

* * * * *

Dated: August 12, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–18972 Filed 8–19–88; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 83F–0409]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a sanitizing solution composed of decanoic acid, octanoic acid, lactic acid, phosphoric acid and a mixture of: (1) The sodium salt of naphthalenesulfonic acid; (2) the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid; and (3) a mixture of the sodium salt of naphthalenesulfonic acid, and the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid alkylated at 3 percent by weight with C_6–C_9 linear olefins. This sanitary solution is used on food processing equipment and utensils. This action responds to a petition filed by Economics Laboratory, Inc.

DATES: Effective August 22, 1988; objections and requests for a hearing by September 21, 1988.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 26, 1984 (49 FR 18044), FDA announced that a petition (FAP 3H3756) has been filed by Economics Laboratory, Inc., Osborn Bldg., St. Paul, MN 55102 (the name and address of the company have been changed to EcoLab, Inc., Ecolab Center, St. Paul, MN 55102), proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended in paragraphs (b)(27) and (c)(22) to provide for the safe use of sodium mono- and dimethylnaphthalenesulfonates for use on food-contact surfaces. Subsequently, FDA published an amended filing notice in the **Federal Register** of April 1, 1987 (52 FR 10412), that made clear that the chemical names of the components of the sanitizing solution are decanoic acid, octanoic acid, and a mixture of: (1) The sodium salt of naphthalenesulfonic acid; (2) the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid; and (3) a mixture of the sodium salt of naphthalenesulfonic acid and the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid alkylated at 3 percent by weight with C_6–C_9 linear olefins. The amended filing notice also made clear that the methyl and dimethyl substituted derivatives (described in (2) above) constitute no less than 70 percent by weight of the mixture of naphthalenesulfonates and corrected the previous filing notice by omitting the proposed specific amendments in § 178.1010 (b)(27) and (c)(22).

FDA has reviewed the safety of the individual food additives that are components of the sanitizing solution, including phosphoric acid and lactic acid, which for the reasons explained below, were not listed in the original or amended notice of filings.

I. Safety of Petitioned Use of the Additives

Sanitizing solutions are mixtures of ingredients. Each listed component in a sanitizing solution has a functional effect. The subject sanitizing solution contains two short chain fatty acids (decanoic acid and octanoic acid) which function as antimicrobial agents; phosphoric and lactic acid which assist in controlling the pH and stabilizing the sanitizing solution, respectively, and a mixture of: (1) The sodium salt of naphthalenesulfonic acid; (2) the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid; and (3) a mixture of the sodium salt of naphthalenesulfonic acid and the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid alkylated at 3 percent by weight with C_6–C_9 linear olefins which functions as an emulsifier.

A. *Short Chain Fatty Acids.* The two short chain fatty acids, decanoic acid and octanoic acid, are antimicrobial agents in the subject sanitizing solution and are used in a currently regulated sanitizing solution listed in 21 CFR 178.1010 (b)(27) and (c)(22). On the basis of the data submitted in support of these regulated uses, and of the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of these fatty acids in the subject sanitizing solution is safe and effective.

B. *Phosphoric Acid and Lactic Acid.* Phosphoric acid functions as a pH stabilizer, and lactic acid assists in stabilizing the sanitizing solution formulation in the subject sanitizing solution. Phosphoric acid is used in many currently regulated sanitizing solutions listed in 21 CFR 178.1010. Phosphoric and lactic acid are listed as generally recognized as safe (GRAS) in 21 CFR 182.1073 and 184.1061, respectively.

Neither compound was specifically listed in § 178.1010 *Sanitizing solutions.* They were not listed in the April 26, 1984, filing notice (49 FR 18044) or the April 1, 1987, amended filing notice (52 FR 10412) because the petitioner did not list these substances in the proposed amendment. The petitioner believed that the use of phosphoric acid and lactic acid in sanitizing solutions was GRAS, and that the use of GRAS substances in such solutions was authorized under 21 CFR 178.1010(b). However, FDA includes GRAS ingredients in food additive regulations for sanitizing solutions when the agency considers the use of these ingredients to be essential in the formulation.

On the basis of data submitted in support of these current regulated uses and safety and efficacy data contained in the food additive petition, FDA concludes that the use of phosphoric acid and lactic acid in the sanitizing solution is safe. Because they assist in controlling the pH and stabilizing the sanitizing solution, respectively, they are essential ingredients in the sanitizing formulation. Therefore, in accord with its general policy of listing substances that are essential in sanitizing solutions, even if they are GRAS, the agency is including phosphoric acid in this regulation.

C. A mixture of: (1) the Sodium Salt of Naphthalenesulfonic acid; (2) the Methyl, Dimethyl, and Trimethyl Derivatives of the Sodium Salt of Naphthalenesulfonic Acid; and (3) a Mixture of the Sodium Salt of Naphthalenesulfonic Acid, and the Methyl, Dimethyl, and Trimethyl Derivatives of the Sodium Salt of Naphthalenesulfonic Acid Alkylated at 3 percent by Weight with C_6–C_9 Linear Olefins (NSA Mixture).

The NSA mixture functions as a emulsifier in the subject sanitizing solution. The methyl and dimethyl derivatives of the sodium salt of naphthalenesulfonic acid constitute no less than 70 percent by weight of the NSA mixture. The NSA mixture is not listed under 21 CFR 178.1010. However, the methyl and dimethyl derivates of the sodium salt of naphthalenesulfonic acid are listed under 21 CFR 173.315 and 172.824 (as "sodium mono- and dimethyl naphthalenesulfonates") for direct food contact use. On the basis of the data submitted in support of these currently regulated uses of components of the NSA mixture and of the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of this mixture in the subject sanitizing solution is safe and effective.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations in 21 CFR 178.1010 should be amended by adding paragraphs (b)(35) and (c)(30) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

II. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the amended notice of filing for FAP 3H3756 (April 1, 1987; 52 FR 10412). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment, and that an environmental impact statement is not required.

III. Filing of Objections

Any person who will be adversely affected by this regulation may at any time on or before September 21, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.1010 is amended by adding paragraphs (b)(35) and (c)(30) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(35) An aqueous solution containing decanoic acid (CAS Reg. No. 334–48–5), octanoic acid (CAS Reg. No. 124–07–2), lactic acid (CAS Reg. No. 050–21–5), phosphoric acid (CAS Reg. No. 7664–38–2) and a mixture of the sodium salt of naphthalenesulfonic acid (CAS Reg. No. 1321–69–3); the methyl, dimethyl, and trimethyl dervatives of the sodium salt of naphthalenesulfonic acid; and a mixture of the sodium salt of naphthalenesulfonic acid, and the methyl, dimethyl, and trimethyl derivatives of the sodium salt of naphthalenesulfonic acid alkylated at 3 percent by weight with C_6–C_9 linear olefins, as components of a sanitizing solution to be used on food-processing equipment and utensils. The methyl and dimethyl substituted derivatives (described within this paragraph (b)(35)) constitute no less than 70 percent by weight of the mixture of naphthalenesulfonates.

(c) * * *

(30) Solutions identified in paragraph (b)(35) of this section shall provide, when ready for use, at least 117 parts per million and not more than 234 parts per million of total fatty acids and at least 166 parts per million and not more than 332 parts per million of a mixture of naphthalenesulfonates. The adjuvants phosphoric acid and lactic acid, used with decanoic acid, octanoic acid, and sodium naphthalenesulfonate and its alkylated derivatives, will not be in excess of the minimum amounts required to accomplish the intended technical effects.

* * * * *

Dated: July 28, 1988.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–18974 Filed 8–19–88; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 444

[Docket No. 79N–0155]

Oligosaccharide Antibiotic Drugs; Neomycin Sulfate For Compounding Oral Products; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the antibiotic drug regulations which describe standards for nonsterile neomycin sulfate for prescription compounding (53 FR 12644; April 15, 1988). The amendatory language inadvertently stated that only the introductory text of paragraph (3) was revised in § 444.942a. The amendatory language for § 444.942a should have stated that the entire paragraph (3) was revised. This document corrects that error.

EFFECTIVE DATE: June 14, 1988.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFS–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 88–8189, appearing on page 12658 in the **Federal Register** of Friday, April 15, 1988, in the first column, under the heading (corrected 53 FR 16615; May 10, 1988) "PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS", amendatory paragraph 2. is corrected to read as follows:

PART 444—[AMENDED]

§ 444.942a [Amended]

2. Section 444.942a is amended by revising the section heading and by revising the introductory text of paragraph (a)(1), and paragraph (a)(3), and paragraph (a)(4)(i), to read as follows:

Dated: August 12, 1988.

Gerald F. Meyer,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 88–18973 Filed 8–19–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances

CFR Correction

In the April 1, 1988 revision of Title 21 (Part 1300 to End) of the Code of Federal Regulations, on page 88, column two, paragraph (f)(2) of § 1308.12 was published incorrectly.

§ 1308.12 [Corrected]

The chemical "Nabiline" should read "Nabilone" in the first and second lines.

BILLING CODE 1505–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8219]

Income Tax: Taxable Years Beginning After December 31, 1953; OMB Control Number Under The Paperwork Reduction Act; Survivor Benefits, Distribution Restriction and Various Other Issues Under the Retirement Equity Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to qualified joint and survivor annuities required to be provided under certain retirement plans under section 401(a)(11) prior to its amendment by the Retirement Equity Act of 1984 (REA 1984). The pre-REA 1984 regulations are changed to conform them to *BBS Associates, Inc. v. Commissioner of Internal Revenue.*

This document also provides final regulations relating to the qualified joint and survivor and qualified preretirement survivor annuity requirements and the notice, election and consent rules enacted by REA 1984 and relating to the effective dates, transitional rules, restrictions on distributions from employee plans, and other issues arising under REA 1984. The final regulations also reflect certain provisions in the Tax Reform Act of 1986 (1986 Act) that affect the REA 1984 provisions. The regulations will generally affect sponsors of, and participants in, pension, profit-sharing and stock bonus plans, and provide plan sponsors with guidance to comply with the law.

DATES: The regulations are effective August 22, 1988. The pre-REA 1984 regulations are applicable for plan years beginning after December 31, 1974. The REA 1984 regulations are generally applicable for plan years beginning after December 31, 1984 except as otherwise specified in REA 1984, or in the 1986 Act.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee

Benefits and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention CC:LR:T) (202–377–9372) not a toll-free number).

Background—Pre-REA 1984 Regulations

On October 27, 1982, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(a)(11) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to *BBS Associates, Inc. v. Commissioner of Internal Revenue*, 74 T.C. 1118 (1980), *aff'd mem.*, 661 F.2d 913 (1981).

No hearing was requested on these pre-REA regulations and none was held.

Explanation of Provisions

Section 401(a)(11), prior to REA 1984, provided that if a trust provides for the payment of benefits in the form of an annuity, such trust must provide for the payment of annuity benefits in a form having the effect of qualified joint and survivor annuity in order for the trust to be qualified under section 401.

Regulations under section 401(a)(11) published prior to REA 1984 interpret this provision to mean that a plan offering a life annuity as a benefit option must provide that the automatic form of benefit payment is a qualified joint and survivor annuity.

The Tax Court and the Court of Appeals for the Third Circuit rejected the interpretation of section 401(a)(11) expressed in the regulations in *BBS Associates, Inc. v. Commissioner of Internal Revenue*, 74 T.C. 1118 (1980), *aff'd mem.*, 661 F.2d 913 (1981). The Court held that sections 401(a)(11)(A) and 401(a)(11)(E) (prior to REA 1984) do not require that the automatic form of benefit distribution be a qualified joint and survivor annuity merely because a plan offers a life annuity as an optional form of benefit. The Court held that *Example (1)* of § 1.401 (a)-11 (a)(3), was invalid.

In Notice 82–4, 1982–1 C.B. 356, the Internal Revenue Service stated that it would not file a petition for a writ of certiorari in the *BBS* case and that the invalidated regulations would be amended.

The pre-REA 1984 regulations, § 1.401(a)–11, are amended to conform to the *BBS* decision. The regulations provide that in order for a plan offering benefits payable as a life annuity to qualify under section 401(a), such life annuity benefits must be paid in the form of a qualified joint and survivor annuity unless the participant elects otherwise.

Actions Taken

Proposed Treas. Reg. § 1.401(a)-11(c)(2)(i)(C)(3) allowed defined benefit plans to satisfy the requirement for the early survivor annuity election by providing a survivor benefit at least equal in value to the present value of the vested portion of the participant's accrued benefit (determined immediately prior to death). Under the proposed regulations, present value must be "determined in accordance with actuarial assumptions or factors specified in the plan".

As suggested by commentators, the requirement with respect to specification of actuarial factors or assumptions for determining present value is conformed to the requirements of Rev. Rul. 79–90, 1979–1 C.B. 155. Thus, certain defined benefit plans must state either assumptions or factors or a variable standard independent of employer discretion determining the present value of a participant's accrued benefit.

The pre-REA 1984 regulations are also amended to reflect the amendment to section 401(a)(11) by REA 1984. However, the rules in the pre-REA regulations, to the extent not inconsistent with the statute and the new regulations, continue to apply to plan years governed by the REA 1984 amendment to section 401(a)(11).

Background—REA 1984 Regulations

On July 19, 1985, the **Federal Register** published proposed and temporary amendments to the Income Tax Regulations (26 CFR Part 1) under sections 401(a)(11) and (13), 402(f), 410(a)(5), 411(a)(6), (7) and (11), 411(d)(3), 414(p), and 417. The text of the temporary regulations served as the text for the proposed regulations. The amendments were proposed to conform the regulations to the Internal Revenue Code provisions of Titles II and III of REA 1984. Amendments under the Paperwork Reduction Act were also proposed. (26 CFR Part 602). A public hearing was held on these REA 1984 proposed regulations on December 9, 1985.

On October 22, 1986, the Tax Reform Act of 1986 (1986 Act) (Pub. L. 99–514, 100 Stat. 2085) was enacted. Sections 1139, 1145 and 1898 of the 1986 Act amended certain Internal Revenue Code provisions affected by REA 1984. The final regulations which are the subject matter of this Treasury decision reflect those provisions. Further, certain provisions of REA 1984 that were not reflected in the proposed regulations are reflected in the final regulations.

After consideration of all written comments and the comments made at the REA 1984 hearing regarding the proposed amendments, the proposed regulations under the applicable Code sections are adopted as revised by this Treasury decision.

Explanation of Provisions

For an explanation of the proposed regulations, see the following preambles to the proposed and temporary REA 1984 regulations in the July 19, 1985 **Federal Register**: (1) EE–3–85 (*see* the cross-referenced temporary regulations, T.D. 8037) 50 FR 29436; (2) EE–35–85 (*see* the cross-referenced temporary regulations, T.D. 8038), 50 FR 29436; (3) T.D. 8037 (OMB Control Numbers under the Paperwork Reduction Act; Notice, Election, and Consent Rules under REA 1984), 50 FR 29376; and (4) T.D. 8038 (Effective Dates, Transitional Rules, Restrictions on Plan Distributions, and Other Issues Arising Under REA 1984), 50 FR 29371.

Matters Relating to Reporting (T.D. 8037)

The principal reporting change in the final regulations, § 1.402(f)–1, relates to the safe harbor notice that may be given recipients of certain plan distributions to satisfy the reporting requirement of section 402(f). The safe harbor notice provided by § 1.402(f)–1T(b) (the temporary regulations superseded by this Treasury decision) is obsolete because of the changes to the distribution rules since its publication.

The final regulations provide the Commissioner with authority to provide new safe harbor notices. The Service intends to publish a notice that reflects the various changes to the taxation of distributions under sections 402 and 403 made by sections 1122 and 1124 of the 1986 Act. Any such notice would cease to be effective upon any change in the applicable law effect by a statute, regulation, revenue ruling or other general guidance that is inconsistent with such notice.

Title I of ERISA

Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has jurisdiction over the subject matter addressed in the REA 1984 regulations. Therefore, under section 104 of the Reorganization Plan, these regulations apply when the Secretary of Labor exercises authority under Title I of the Employee Retirement Income Security Act of 1974 (as amended, including the amendments made by Title I of REA and

the subsequent amendments by the 1986 Act) ("ERISA"). Thus, the requirements also apply to employee plans subject to Title I of ERISA.

No Spousal Consent Needed for Commencement of Qualified Joint and Survivor Annuity

The proposed and temporary regulations required that the spouse of a participant consent to the distribution of a qualified joint and survivor annuity (QJSA) before the participant attains the later of age 62 or normal retirement age. Section 1.417(e)–1(b) of the final regulations removes this requirement and permits plans subject to section 417 to provide that a married participant who retires may elect, without the consent of the participant's spouse, to begin receiving a QJSA before attaining the later of age 62 or normal retirement age. The Service announced this position on October 2, 1985 (see News Release 85–99, also published in 1985–43 I.R.B. 29 (October 28, 1985)).

Section 417(b) defines a QJSA. In general, a QJSA is an immediate annuity for the life of the participant, with a survivor annuity for the life of the participant's spouse. A plan may have more than one joint and survivor annuity satisfying the QJSA requirements. If so, the plan must designate which one is the QJSA and therefore the automatic form of payment. The QJSA for a married participant must be at least equal to the most valuable optional form of benefit payable to the participant at the time of the election. The amount of the survivor annuity may not be less than 50 percent, and not more than 100 percent, of the amount of the annuity payable during the time when the participant and spouse are both alive. (*See also* pre-REA 1984 section 401(a)(11) and § 1.401(a)–11(b)(2) for the pre-REA 1984 definition of a QJSA which is still generally applicable.)

Plan Amendments

Under the proposed and temporary regulations, plan amendments reequired by REA 1984 were generally required to be adopted not later than the end of the first plan year to which the statutory provisions apply (generally the first plan year beginning in 1985).

Since the publication of the regulations, technical corrections to REA 1984 (technical corrections) were enacted in Title XVIII of the 1986 Act. In Notice 87–28, published in 1987—14 I.R.B. 46 (April 6, 1987), the Service generally extended the date by which plans must be amended to satisfy the proposed and temporary REA regulations and the technical corrections. Under the Notice, plan amendments generally are not required until the time section 1140 of the 1986 Act would require other plan amendments, generally the 1989 plan year, as long as there is compliance in operation with the proposed and temporary regulations and the technical corrections.

The time for making plan amendments to comply with REA would also be extended to the time permitted by section 401(b) for plans to be amended to comply with the 1986 Act. In general, plans can continue to follow Notice 87–28 until that time, except that the plan must satisfy the retroactive compliance requirements of section 401(b). Thus, in general, most plans must satisfy these final regulations as of the first day of the first plan year beginning after December 31, 1988.

Use of PBGC Interest Rate

The proposed and temporary regulations required that plans subject to the survivor annuity requirements of sections 411(a)(11) and 417(e) satisfy two basic rules. First, for purposes of determining whether a distribution may be made without obtaining the applicable consents (the "threshold rule"), a participant's benefit must be valued by using an interest rate no greater than the Pension Benefit Guaranty Corporation's (PBGC) immediate interest rate for trusteed single-employer plans. Second, the actual single sum that the participant (or beneficiary) receives under the plan must be calculated using an interest rate no greater than the immediate PBGC rate (the "amount rule") for trusteed single-employer plans. The same interest rate must be used for both the threshold and amount rules. Many commentators objected to the amount rule.

Section 1139 of the 1986 Act ratified the threshold and amount rules set forth in the proposed and temporary regulations and sections 411(a)(11) and 417 with certain changes. The final regulations adopt these rules to reflect section 1139 of the 1986 Act. The Service issued guidance on these rules in Notice 87–20, 1987–6 I.R.B. 17 (February 9, 1987). The rules in Notice 87–20 are adopted in these final REA 1984 regulations, except as otherwise indicated. For plans that did not satisfy the interest rate restrictions of the proposed and temporary regulations, Notice 87–20 requires retroactive adjustments using the interest rates set forth in the Notice. Increased distributions resulting from these adjustments were required to be made by August 9, 1987. The time to distribute required increases due to recalculation of benefits using the appropriate interest rate is extended until the end of the first plan year beginning after December 31, 1988.

Some of the principal changes in the final regulations resulting from the 1986 Act are discussed below. First, plan provisions must use the PBGC applicable interest rate rather than the PBGC immediate interest rate for both the threshold rule and the amount rule. The PBGC immediate interest rate is a single interest rate used to value an immediate annuity that is determined at the date of plan termination of an insufficient trusteed single-employer plan. The PBGC applicable interest rate (referred to in the final REA 1984 regulations as the "section 417 interest rate") is the immediate interest rate where an immediate annuity is being valued and is a set of interest rates computed for varying time periods where a deferred annuity is being valued. *See also*, final PBGC regulations under section 29 CFR Part 2619 (Appendix B) which are discussed in more detail in Notice 87–20.

Second, the final regulations reflect the amendments to the threshold and amount rule in sections 411(a)(11)(B) and 417(e)(3) made by section 1139 of the 1986 Act. There is a two-tier test for valuing single sum distributions using $25,000 (unindexed) as the breakpoint. The section 417(e) interest rate for vested accrued benefits equal to or less than $25,000 is the PBGC applicable interest rate and for vested accrued benefits greater than $25,000 is 120 percent of such PBGC rate. If a participant or beneficiary would receive a single sum distribution of less than $25,000 if the interest rate used to calculate the distribution were 120 percent of the PBGC applicable interest rate then 100 percent of such PBGC rate must be used to calculate the amount of the benefit. This two-tier test is set forth in §§ 1.411(a)–11(d) and 1.417(e)–1(d)(2).

Finally, in order to retain its qualification under section 401(a) or 403(a), a plan must contain provisions reflecting the section 417(e) interest rate limitations used in the threshold and amount rules, even if the provisions that are currently in the plan currently result in greater single sum distributions than the distributions that would result from use of the section 417(e) interest rate. This provision is required because, in the future, use of the section 417(e) rate rather than the plan rate may result in larger distributions due to the variable nature of PBGC rates. These rules are discussed in more detail in Notice 87–20.

The proposed and temporary regulations were unclear as to how the

interest rate limitations applied to benefits under plans in situations in which plan benefits in the form of single sum distributions include subsidies. The final regulations apply the interest rate limitations to value all benefits, including subsidies such as early retirement and survivor subsidies, effective for distributions commencing on or after the first day of the first plan year beginning after December 31, 1988. Prior to such date, a plan will be considered to satisfy the interest rate limitation rules with respect to subsidies if under the plan a reasonable interpretation of the temporary regulations was applied on a consistent basis.

Loan Rules

The proposed and temporary REA 1984 regulations provided rules governing the reduction of an accrued benefit to satisfy a participant's loan obligation to the plan. Because such a reduction is treated as a distribution from the plan, it is generally subject to the applicable consent requirements of sections 411(a)(11) and 417(e). Nevertheless, the proposed and temporary regulations provided that a plan may obtain the consent of the participant and the participant's spouse within the 90-day period before a loan is secured by the accrued benefit.

The loan rules of sections 401(a)(11)(B)(iii) and 417 (a)(4) and (c)(3) were revised by the 1986 Act. Section 1.401(a)–20, Q&A 24, reflects these amendments, which closely approximate the rules in the proposed and temporary regulations.

The Department of Labor has interpretive authority over the prohibited transaction rules of section 4975. It has indicated that a loan secured by an accrued benefit subject to REA 1984 may not be adequately secured under section 4975(d)(1) if consent to a reduction in the accrued benefit is not obtained before a loan is so secured, and, therefore, may be a prohibited transaction.

DEC Benefits and Employee Contributions

The final regulations, § 1.401(a)–20, Q&As 14(b) and 39(c), contain rules applying the consent requirements to plans holding Qualified Voluntary Employee Contributions (Accumulated DECs). Accumulated DECs are plan benefits attributable to employee contributions deductible under section 219. Because the consent requirements were not applied to Accumulated DECs under the proposed and temporary regulations, these rules will not apply to distributions made before the first day of the first plan year beginning after December 31, 1988.

Further, a transitional rule is provided for plans that paid benefits attributable to employee contributions to employees who were not vested in employer contributions. Under this transitional rule, distribution of these employee contributions prior to October 22, 1986, will generally not be treated as violating sections 401(a)(11) and 417.

Annuity Starting Date

The final regulations clarify the meaning of annuity starting date. In the case of payment of a benefit as an annuity, the annuity starting date is the first day of the first period for which an annuity is paid. For example, if an annuity is paid retroactive to January 1, the annuity stating date is January 1 even though the actual payment is not made until a later date. Similarly, in the case of a payment not in an annuity form, the annuity starting date is the first day of the first period for which the benefit form is paid.

The annuity starting date is important for purposes of determining when QPSA coverage ends and, therefore, when a QJSA must be provided and when participant and spousal consent must be provided. Further, the annuity starting date is the distribution date under sections 411(a)(11) and 417(e) for purposes of determining the applicable PBGC interest rate.

Participant and spousal consent must be obtained within 90 days prior to the annuity starting date. For example, if the plan offers a deferred annuity option starting five years hence, in order for the plan to pay the deferred annuity option, participant and spousal consent to waive the QJSA and take the annuity must be obtained 90 days before the start of the period five years hence. Thus, the plan may only receive consent with respect to benefits that commence within 90 days (*i.e.*, annuity starting date is within 90 days). Any delayed payment form alternative to the QJSA requires consents at the time of commencement of the delayed payments.

Accrued Benefit, Cash-Out Rules

A plan may have more than one optional form of benefit under which benefits may be paid. There is no requirement that each form of benefit be the actuarial equivalent of all other benefit forms. Thus, a plan could have a QJSA benefit form that has a larger actuarial value than a benefit payable as a single life annuity and the amount of a single sum optional form could be determined based on the single life annuity. Similarly, a plan may provide for a retirement subsidy or an early retirement benefit that applies to the payment of a specific optional form. Whether these subsidies must be valued when calculating the amount of the single sum distribution depends on the plan provisions. The present value required by sections 411(a)(11) and 417(e) and § 1.417(e)–1(a) applies to the particular optional form of benefit as determined under the plan. The definitely determinable requirement and the requirements of section 411(c)(3) also apply in determining the amount of any optional form of benefit. Thus, a plan may satisfy such requirements even though it has a subsidized joint and survivor annuity and determines a single sum distribution based on an unsubsidized single life annuity.

The final regulations, §§ 1.411(a)–7(d)(2)(ii) (C) and (D) and (d)(4) (i) and (iv), change the existing cash-out rules under section 411(a)(7) to reflect REA 1984. Generally, a plan must permit a participant to repay any plan distribution that is less than the present value of the participant's accrued benefit. The determination of the present value of the accrued benefit is based on the form of benefit distributed to the participant. A plan distributing a participant's entire accrued benefit is not required to take into account benefit subsidies described in section 411(d)(6)(B)(i) to which the participant is not currently entitled but to which the participant could subsequently be entitled. For example, if a participant receives a distribution of his entire accrued benefit at a time when he has not yet satisfied the conditions for a subsidized benefit, the plan is not required to permit the participant to repay the distribution of his benefit. If the plan does not distribute the entire accrued benefit, however, and the participant both repays the distribution and later satisfies the conditions for the subsidy, the participant must be entitled to the subsidy in order for the plan to satisfy section 411.

Executive Order 12291 and Regulatory Flexibility Act

The Treasury Department has determined that this final rule is not a major rule as defined in Executive Order 12291 and that, therefore, a regulatory impact analysis is not required.

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to

the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-0928. The estimated average burden associated with the collection of information in this final rule is 35 minutes per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Washington, DC 20224, *Attention:* IRS Reports Clearance Office, TR:FP and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention Desk Officer for Internal Revenue Service.

Temporary Regulations Superseded

The following table indicates sections in the temporary regulations that are superceded, the sections of the corresponding final regulation that replaces the temporary regulation and the subject matter for the regulation section:

Temporary regulation section	Final regulation section	Subject matter
Section 1.401(a)-11T.	Section 1.401(a)-20.	Requirements of qualified joint and survivor annuity and qualified preretirement survivor annuity.
Section 1.401(a)-13T.	Section 1.401(a)-13.	Assignment of alienation of benefits; special rules for qualified domestic relations orders.
Section 1.402(f)-1T.	Section 1.402(f)-1.	Required explanation of rollovers, capital gains, and special averaging.
Section 1.410(a)-5T.	Section 1.410(a)-8.	Five consecutive 1-year breaks in service, transitional rules under the Retirement Equity Act of 1984.
Section 1.410(a)-7T.	Section 1.410(a)-9.	Elapsed time method; maternity and paternity absence.
Section 1.411(a)(11)-1T.	Section 1.411(a)-11.	Restrictions and valuations of distributions.
Section 1.411(d)-3T.	Section 1.411(d)-3.	Class year plan—pre-1986 year.
	Section 1.411(d)-4.	Class year plans—post-1986 year.
Section 1.417(e)-1T.	Section 1.417(e)-1.	Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

Drafting Information

The principal authors of these final regulations are William D. Gibbs and Richard J. Wickersham, of the Employee Benefit and Exempt Organizations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department also participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 602 are amended as follows:

Income Tax Regulation

PART 1—[AMENDED]

Paragraph 1. The authority citation for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805.

Par. 2. Section 1.401(a)-(11) is amended by—

1. Striking out in paragraphs (a)(1) (i), (ii) and (iii) "such benefits" and adding in lieu thereof "life annuity benefits".
2. Revising paragraph (a) (3) *Example* (1).
3. Revising paragraph (c)(2) (i)(C).
4. Revising the first two sentences of paragraph (c)(3) (ii).
5. Revising paragraph (d)(1) and adding a new paragraph (d)(5).
6. Adding a new paragraph (g).

These revised and added provisions read as follows:

§ 1.401 (a)-11 Qualified joint and survivor annuities.

(a) *General rule*—* * *

(3) *Illustration* * * *

Example (1). The X Corporation Defined Contribution Plan was established in 1960. As in effect on January 1, 1974, the plan provided that, upon the participant's retirement, the participant may elect to receive the balance of his account in the form of (1) a single-sum cash payment, (2) a single-sum distribution consisting of X Corporation stock, (3) five equal annual cash payments, (4) a life annuity, or (5) a combination of options (1) through (4). The plan also provided that, if a participant did not elect another form of distribution, the balance of his account would be distributed to him in the form of a single-sum cash payment upon his retirement. Assume that section 401(a)(11) and this section became applicable to the plan as of its plan year beginning January 1, 1976, with respect to persons who were active participants in the plan as of such date (see paragraph (f) of this section). If X Corporation Defined Contribution Plan continues to allow the life annuity payment option after December 31, 1975, it must be amended to provide that if a participant elects a life annuity option the life annuity benefit will be paid in a form having the effect of a qualified joint and survivor annuity, except to the extent that the participant elects another form of benefit payment. However, the plan can continue to provide that, if no election is made, the balance will be paid as a single-sum cash payment. If the trust is not so amended, it will fail to qualify under section 401(a).

* * * * *

(c) *Election.* * * *

(2) *Election of early survivor annuity*—(i) *In general.* * * *

(C) A plan is not required to provide an election under this subparagraph if—

(*1*) The plan provides that an early survivor annuity is the only form of benefit payable under the plan with respect to a married participant who dies while employed by an employer maintaining the plan,

(*2*) In the case of a defined contribution plan, the plan provides a survivor benefit at least equal in value to the vested portion of the participant's account balance, if the participant dies while in active service with an employer maintaining the plan, or

(*3*) In the case of a defined benefit plan, the plan provides a survivor benefit at least equal in value to the present value of the vested portion of the participant's normal form of the accrued benefit payable at normal retirement age (determined immediately prior to death), if the participant dies while in active service with an employer maintaining the plan. Any present values must be determined in accordance with either the actuarial assumptions or factors specified in the plan, or a variable standard independent of employer discretion for converting optional benefits specified in the plan.

* * * * *

(3) *Information to be provided by plan administrator.*

* * * * *

(ii) The method or methods used to provide the information described in subdivision (i) of this subparagraph may vary. Posting which meets the requirements of § 1.7476-2(c)(1) may be used; see § 1.7476-2(c)(1) for examples of other methods which may be used. * * *

(d) *Permissible additional plan provisions*—(1) *In general.* A plan will not fail to meet the requirements of section 401(a)(11) and this section merely because it contains one or more of the provisions described in paragraphs (d)(2) through (5) of this section.

* * * * *

(5) *Benefit option approval by third party.* (i) A plan may provide that an optional form of benefit elected by a participant is subject to the approval of an administrative committee or similar third party. However, the administrative committee cannot deny a participant any of the benefits required by section 401(a)(11). For example, if a plan offers a life annuity option, the committee may deny the participant a qualified joint and survivor annuity only by denying the participant access to all life annuity options without knowledge of whether the participant wishes to receive a qualified joint and survivor annuity. Alternatively, if the committee knows which form of life annuity the participant has chosen before the committee makes its decision, the committee cannot withhold its consent for payment of a qualified joint and survivor annuity event though it denies all other life annuity options. This subparagraph (5) only applies before the effective date of the amendment made to section 411(d)(6) by section 301 of the Retirement Equity Act of 1984. See section 411(d)(6) and the regulations thereunder for rules limiting employer discretion.

(ii) The provisions of this subparagraph may be illustrated by the following example:

Example. In 1980 plan M provides that the automatic form of benefit is a single sum distribution. The plan also permits, subject to approval by the administrative committee, the election of several optional forms of life annuity. On the election form that is reviewed by the administrative committee the participant indicates whether any life annuity option is preferred, without indicating the particular life annuity chosen. Thus, the committee approves or disapproves the election without knowledge of whether a qualified joint and survivor annuity will be elected. The administrative committee approval provision in Plan M does not cause the plan to fail to satisfy this section. On the other hand, if the form indicates which form of life annuity is preferred, committee disapproval of any election of the qualified joint and survivor annuity would cause the plan to fail to satisfy this section.

* * * * *

(g) *Effect of REA 1984*—(1) *In general.* The Retirement Equity Act of 1984 (REA 1984) significantly changed the qualified joint and survivor annuity rules generally effective for plan years beginning after December 31, 1984. The new survivor annuity rules are primarily in sections 401(a)(11) and 417 as revised by REA 1984 and §§ 1.401(a)–20 and 417(e)–1.

(2) *Regulations after REA 1984.* (i) REA and the regulations thereunder to the extent inconsistent with pre-REA 1984 section 401(a)(11) and this section are controlling for years to which REA 1984 applies. See *e.g.*, paragraphs (a)(1) and (2) of this section, relating to required provisions and certain cash-outs, respectively and (e), relating to costs of providing annuities, for rules that are inconsistent with REA 1984 and, therefore, are not applicable to REA 1984 years.

(ii) To the extent that the pre-REA 1984 law either is the same as or consistent with REA 1984 and the new regulations hereunder, the rules in this section shall continue to apply for years to which REA 1984 applies. (See, *e.g.*, paragraph (c) (relating to how information is furnished participants and spouses) and paragraph (b) (defining a life annuity) for some of the rules that apply to REA 1984 years.) The rules in this section shall not apply for such year to the extent that they are inconsistent with REA 1984 and the regulations thereunder.

(iii) The Commissioner may provide additional guidance as to the continuing effect of the various rules in this section for years to which REA applies.

§ 1.401(a)–11T [Removed]

Par. 3. Section 1.401(a)–11T is removed. New § 1.401(a)–20 is added in its place immediately after § 1.401(a)–19 to read as follows:

§ 1.401(a)–20 Requirements of qualified joint and survivor annuity and qualified preretirement survivor annuity.

Q–1: What are the survivor annuity requirements added to the Code by the Retirement Equity Act of 1984 (REA 1984)?

A–1: REA 1984 replaced section 401(a)(11) with a new section 401(a)(11) and added section 417. Plans to which new section 401(a)(11) applies must comply with the requirements of sections 401(a)(11) and 417 in order to remain qualified under sections 401(a) or 403(a). In general, these plans must provide both a qualified joint and survivor annuity (QJSA) and a qualified preretirement survivor annuity (QPSA) to remain qualified. These survivor annuity requirements are applicable to any benefit payable under a plan, including a benefit payable to a participant under a contract purchased by the plan and paid by a third party.

Q–2: Must annuity contracts purchased and distributed to a participant or spouse by a plan subject to the survivor annuity requirements of sections 401(a)(11) and 417 satisfy the requirements of those sections?

A–2: Yes. Rights and benefits under section 401(a)(11) or 417 may not be eliminated or reduced because the plan uses annuity contracts to provide benefits merely because (a) such a contract is held by a participant or spouse instead of a plan trustee, or (b) such contracts are distributed upon plan termination. Thus, the requirements of sections 401(a)(11) and 417 apply to payments under the annuity contracts, not to the distributions of the contracts.

Q–3: What plans are subject to the survivor annuity requirements of section 401(a)(11)?

A–3: (a) Section 401(a)(11) applies to any defined benefit plan and to any defined contribution plan that is subject to the minimum funding standards of section 412. This section also applies to any participant under any other defined contribution plan unless all of the following conditions are satisfied—

(1) The plan provides that the participant's nonforfeitable accrued benefit is payable in full, upon the participant's death, to the participant's surviving spouse (unless the participant elects, with spousal consent that satisfies the requirements of section 417(a)(2), that such benefit be provided instead to a designated beneficiary);

(2) The participant does not elect the payment of benefits in the form of a life annuity; and

(3) With respect to the participant, the plan is not a transferee or an offset plan. (See Q&A 5 of this section.)

(b) A defined contribution plan not subject to the minimum funding standards of section 412 will not be treated as satisfying the requirement of paragraph (a)(1) unless both of the following conditions are satisfied—

(1) The benefit is available to the surviving spouse within a reasonable time after the participant's death. For this purpose, availability within the 90-day period following the date of death is deemed to be reasonable and the reasonableness of longer periods shall be determined based on the particular facts and circumstances. A time period longer than 90 days, however, is deemed unreasonable if it is less favorable to the surviving spouse than any time period under the plan that is applicable to other distributions. Thus, for example, the availability of a benefit to the surviving spouse would be unreasonable if the distribution was required to be made by the close of the plan year including the

participant's death while distributions to employees who separate from service were required to be made within 90 days of separation.

(2) The benefit payable to the surviving spouse is adjusted for gains or losses occurring after the participant's death in accordance with plan rules governing the adjustment of account balances for other plan distributions. Thus, for example, the plan may not provide for distributions of an account balance to a surviving spouse determined as of the last day of the quarter in which the participant's death occurred with no adjustments of an account balance for gains or losses after death if the plan provides for such adjustments for a participant who separates from service within a quarter.

(c) For purposes of determining the extent to which section 401(a)(11) applies to benefits under an employee stock ownership plan (as defined in section 4975(e)(7)), the portion of a participant's accrued benefit that is subject to section 409(h) is to be treated as though such benefit were provided under a defined contribution plan not subject to section 412.

(d) The requirements set forth in section 401(a)(11) apply to other employee benefit plans that are covered by applicable provisions under Title I of the Employee Retirement Income Security Act of 1974. For purposes of applying the regulations under sections 401(a)(11) and 417, plans subject to ERISA section 205 are treated as if they were described in section 401(a). For example, to the extent that section 205 covers section 403(b) contracts and custodial accounts they are treated as section 401(a) plans. Individual retirement plans (IRAs), including IRAs to which contributions are made under simplified employee pensions described in section 408(k) and IRAs that are treated as plans subject to Title I, are not subject to these requirements.

Q–4: What rules apply to a participant who elects a life annuity option under a defined contribution plan not subject to section 412?

A–4: If a participant elects at any time (irrespective of the applicable election period defined in section 417(a)(6)) a life annuity option under a defined contribution plan not subject to section 412, the survivor annuity requirements of sections 401(a)(11) and 417 will always thereafter apply to all of the participant's benefits under such plan unless there is a separate accounting of the account balance subject to the election. A plan may allow a participant to elect an annuity option prior to the applicable election period described in section 417(a)(6). If a participant elects an annuity option, the plan must satisfy the applicable written explanation, consent, election, and withdrawal rules of section 417, including waiver of the QJSA within 90 days of the annuity starting date. If a participant selecting such an option dies, the surviving spouse must be able to receive the QPSA benefit described in section 417(c)(2) which is a life annuity, the actuarial equivalent of which is not less than 50 percent of the nonforfeitable account balance (adjusted for loans as described in Q&A 24(d) of this section). The remaining account balance may be paid to a designated nonspouse beneficiary.

Q–5: How do sections 401(a)(11) and 417 apply to transferee plans which are defined contribution plans not subject to section 412?

A–5: (a) *Transferee plans.* Although the survivor annuity requirements of sections 401(a)(11) and 417 generally do not apply to defined contribution plans not subject to section 412, such plans are subject to the survivor annuity requirements to the extent that they are transferee plans with respect to any participant. A defined contribution plan is a transferee plan with respect to any participant if the plan is a direct or indirect transferee of such participant's benefits held on or after January 1, 1985, by:

(1) A defined benefit plan,

(2) A defined contribution plan subject to section 412

or

(3) A defined contribution plan that is subject to the survivor annuity requirements of sections 401(a)(11) and 417 with respect to that participant.

If through a merger, spinoff, or other transaction having the effect of a transfer, benefits subject to the survivor annuity requirements of sections 401(a)(11) and 417 are held under a plan that is not otherwise subject to such requirements, such benefits will be subject to the survivor annuity requirements even though they are held under such plan. Even if a plan satisfies the survivor annuity requirements, other rules apply to these transactions. See, *e.g.*, section 411(d)(6) and the regulations thereunder. A transfer made before January 1, 1985, and any rollover contribution made at any time, are not transactions that subject to the transferee plan to the survivor annuity requirements with respect to a participant. If a plan is a transferee plan with respect to a participant, the survivor annuity requirements do not apply with respect to other plan participants solely because of the transfer. Any plan that would not otherwise be subject to the survivor annuity requirements of sections 401(a)(11) and 417 whose benefits are used to offset benefits in a plan subject to such requirements is subject to the survivor annuity requirements with respect to those participants whose benefits are offset. Thus, if a stock bonus or profit-sharing plan offsets benefits under a defined benefit plan, such a plan is subject to the survivor annuity requirements.

(b) *Benefits covered.* The survivor annuity requirements apply to all accrued benefits held for a participant with respect to whom the plan is a transferee plan unless there is an acceptable separate accounting between the transferred benefits and all other benefits under the plan. A separate accounting is not acceptable unless gains, losses, withdrawals, contributions, forfeitures, and other credits or charges are allocated on a reasonable and consistent basis between the accrued benefits subject to the survivor annuity requirements and other benefits. If there is an acceptable separate accounting between transferred benefits and any other benefits under the plan, only the transferred benefits are subject to the survivor annuity requirements.

Q–6: Is a frozen or terminated plan required to satisfy the survivor annuity requirements of sections 401(a)(11) and 417?

A–6: In general, benefits provided under a plan that is subject to the survivor annuity requirements of sections 401(a)(11) and 417 must be provided in accordance with those requirements even if the plan is frozen or terminated. However, any plan that has a termination date prior to September 17, 1985, and that distributed all remaining assets as soon as administratively feasible after the termination date, is not subject to the survivor annuity requirements. The date of termination is determined under section 411(d)(3) and § 1.411(d)–2(c).

Q–7: If the Pension Benefit Guaranty Corporation (PBGC) is administering a plan are benefits payable in the form of a OPSA or QJSA

A–7: Yes, the PBGC will pay benefits in such forms.

Q–8: How do the survivor annuity requirements of sections 401(a)(11) and 417 apply to participants?

A–8: (a) If a participant dies before the annuity starting date with vested benefits attributable to employer or employee contributions (or both), benefits must be paid to the surviving spouse in the form of a QPSA. If a participant survives until the annuity

starting date with vested benefits attributable to employer or employee contributions (or both), benefits must be provided to the participant in the form of a QJSA.

(b) A participant may waive the QPSA or the QJSA (or both) if the applicable notice, election, and spousal consent requirements of section 417 are satisfied.

(c) Benefits are not required to be paid in the form of a QPSA or QJSA if at the time of death or distribution the participant was vested only in employee contributions and such death occurred, or distribution commenced, before October 22, 1986.

(d) *Certain mandatory distributions.* A distribution may occur without satisfying the spousal consent requirements of section 417 (a) and (e) if the present value of the nonforfeitable benefit does not exceed $3,500. See § 1.417(e)–1.

Q–9: May separate portions of a participant's accrued benefit be subject to QPSA and QJSA requirements at any particular point in time?

A–9: (a) *Dual QPSA and QJSA rights.* One portion of a participant's benefit may be subject to the QPSA and another portion to the QJSA requirements at the same time. For example, in order for a money purchase pension plan to distribute any portion of a married participant's benefit to the participant, the plan must distribute such portion in the form of a QJSA (unless the plan satisfies the applicable consent requirements of section 417 (a) and (e) with respect to such portion of the participant's benefit). This rule applies even if the distribution is merely an in-service distribution attributable to voluntary employee contributions and regardless of whether the participant has attained the normal retirement age under the plan. The QJSA requirements apply to such a distribution because the annuity starting date has occurred with respect to this portion of the participant's benefit. In the event of a participant's death following the commencement of a distribution in the form of a QJSA, the remaining payments must be made to the surviving spouse under the QJSA. In addition, the plan must satisfy the QPSA requirements with respect to any portion of the participant's benefits for which the annuity starting date had not yet occurred.

(b) *Example.* Assume that participant A has a $100,000 account balance in a money purchase pension plan. A makes an in-service withdrawal of $20,000 attributable to voluntary employee contributions. The QJSA requirements apply to A's withdrawal of the $20,000. Accordingly, unless the QJSA form is properly waived such amount must be distributed in the form of a QJSA. A's remaining account balance ($80,000) remains subject to the QPSA requirements because the annuity starting date has not occurred with respect to the $80,000. (If A survives until the annuity starting date, the $80,000 would be subject to the QJSA requirements.) If A died on the day following the annuity starting date for the withdrawal, A's spouse would be entitled to a QPSA with a value equal to at least $40,000 with respect to the $80,000 account balance, in addition to any survivor benefit without respect to the $20,000. If the $20,000 payment to A had been the first payment of an annuity purchased with the entire $100,000 account balance rather than an in-service distribution, then the QJSA requirements would apply to the entire account balance at the time of the annuity starting date. In such event, the plan would have no obligation to provide A's spouse with a QPSA benefit upon A's death. Of course, A's spouse would receive the QJSA benefit (if the QJSA had not been waived) based on the full $100,000.

Q–10: What is the relevance of the annuity starting date with respect to the survivor benefit requirements?

A–10: (a) *Relevance.* The annuity starting date is relevant to whether benefits are payable as either a QJSA or QPSA, or other selected optional form of benefit. If a participant is alive on the annuity starting date, the benefits must be payable as a QJSA. If the participant is not alive on the annuity starting date, the surviving spouse must receive a QPSA. The annuity starting date is also used to determine when a spouse may consent to and a participant may waive a QJSA. A waiver is only effective if it is made 90 days before the annuity starting date. Thus, a deferred annuity cannot be selected and a QJSA waived until 90 days before payments commence under the deferred annuity. In some cases, the annuity starting date will have occurred with respect to a portion of the participant's accrued benefit and will not have occurred with respect to the remaining portion. (See Q&A–9.)

(b) *Annuity starting date*—(1) *General rule.* For purposes of sections 401(a)(11), 411(a)(11) and 417, the annuity starting date is the first day of the first period for which an amount is paid as an annuity or any other form.

(2) *Annuity payments.* The annuity starting date is the first date for which an amount is paid, not the actual date of payment. Thus, if participant A is to receive annuity payments as of the first day of the first month after retirement but does not receive any payments until three months later, the annuity starting date is the first day of the first month. For example, if an annuity is to commence on January 1, January 1 is the annuity starting date even though the payment for January is not actually made until a later date. In the case of a deferred annuity, the annuity starting date is the date for which the annuity payments are to commence, not the date that the deferred annuity is elected or the date the deferred annuity contract is distributed.

(3) *Administrative delay.* A payment shall not be considered to occur after the annuity starting date merely because actual payment is reasonably delayed for calculation of the benefit amount if all payments are actually made.

(4) *Forfeitures on death.* Prior to the annuity starting date, section 411(a)(3)(A) allows a plan to provide for a forfeiture of a participant's benefit, except in the case of a QPSA or a spousal benefit described in section 401(a)(11)(B)(iii)(I). Once the annuity starting date has occurred, even if actual payment has not yet been made, a plan must pay the benefit in the distribution form elected.

(5) *Surviving spouses, alternate payees, etc.* The definition of "annuity starting date" for surviving spouses, other beneficiaries and alternate payees under section 414(p) is the same as it is for participants.

(c) *Disability auxiliary benefit*—(1) *General rule.* The annuity starting date for a disability benefit is the first day of the first period for which the benefit becomes payable unless the disability benefit is an auxiliary benefit. The payment of any auxiliary disability benefits is disregarded in determining the annuity starting date. A disability benefit is an auxiliary benefit if upon attainment of early or normal retirement age, a participant receives a benefit that satisfies the accrual and vesting rules of section 411 without taking into account the disability benefit payments up to that date.

(2) *Example.* (i) Assume that participant A at age 45 is entitled to a vested accrued benefit of $100 per month commencing at age 65 in the form of a joint and survivor annuity under Plan X. If prior to age 65 A receives a disability benefit under Plan X and the payment of such benefit does not reduce the amount of A's retirement benefit of $100 per month commencing at age 65, any disability benefit payments made to A between ages 45 and 65 are auxiliary benefits. Thus, A's annuity starting date does not occur until A attains age 65. A's surviving spouse B would be entitled to receive a QPSA if A died before age 65. B would be entitled to receive the survivor portion of a QJSA (unless waived) if A died after age 65. The QPSA payable to B upon A's death prior to age 65 would be computed by reference to the QJSA that would have been payable to A and B had A survived to age 65.

(ii) If in the above example A's benefit payable at age 65 is reduced to $99 per month because a disability benefit is provided to A

prior to age 65, the disability benefit would not be an auxiliary benefit. The benefit of $99 per month payable to A at age 65 would not, without taking into account the disability benefit payments to A prior to age 65, satisfy the minimum vesting and accrual rules of section 411. Accordingly, the first day of the first period for which the disability payments are to be made to A would constitute A's annuity starting date, and any benefit paid to A would be required to be paid in the form of a QJSA (unless waived by A with the consent of B).

(d) *Other rules*—(1) *Suspension of benefits.* If benefit payments are suspended after the annuity starting date pursuant to a suspension of benefits described in section 411(a)(3)(B) after an employee separates from service, the recommencement of benefit payments after the suspension is not treated as a new annuity starting date unless the plan provides otherwise. In such case, the plan administrator is not required to provide new notices nor to obtain new waivers for the recommenced distributions if the form of distribution is the same as the form that was appropriately selected prior to the suspension. If benefits are suspended for an employee who continues in service without a separation and who never receives payments, the commencement of payments after the period of suspension is treated as the annuity starting date unless the plan provides otherwise.

(2) *Additional accruals.* In the case of an annuity starting date that occurs on or after normal retirement age, such date applies to any additional accruals after the annuity starting date, unless the plan provides otherwise. For example, if a participant who continues to accrue benefits elects to have benefits paid in an optional form at normal retirement age, the additional accruals must be paid in the optional form selected unless the plan provides otherwise. In the case of an annuity starting date that occurs prior to normal retirement age, such date does not apply to any additional accruals after such date.

Q–11: Do the survivor annuity requirements apply to benefits derived from both employer and employee contributions?

A–11: Yes. The survivor annuity benefit requirements apply to benefits derived from both employer and employee contributions. Benefits are not required to be paid in the form of a QPSA or QJSA if the participant was vested only in employee contributions at the time of death or distribution and such death or distribution occurred before October 22, 1986. All benefits provided under a plan, including benefits attributable to rollover contributions, are subject to the survivor annuity requirements.

Q–12: To what benefits do the survivor annuity requirements of sections 401(a)(11) and 417 apply?

A–12: (a) *Defined benefit plans.* Under a defined benefit plan, sections 401(a)(11) and 417 apply only to benefits in which a participant was vested immediately prior to death. They do not apply to benefits to which a participant's beneficiary becomes entitled by reason of death or to the proceeds of a life insurance contract to the extent such proceeds exceed the present value of the participant's nonforfeitable benefits that existed immediately prior to death.

(b) *Defined contribution plans.* Sections 401(a)(11) and 417 apply to all nonforfeitable benefits which are payable under a defined contribution plan, whether nonforfeitable before or upon death, including the proceeds of insurance contracts.

Q–13: Does the rule of section 411(a)(3)(A) which permits forfeitures on account of death apply to a QPSA or the spousal benefit described in section 401(a)(11)(B)(iii)?

A–13: No. Section 411(a)(3)(A) permits forfeiture on account of death prior to the time all the events fixing payment occur. However, this provision does not operate to deprive a surviving spouse of a QPSA or the spousal benefit described in section 401(a)(11)(B)(iii). Therefore, sections 401(a)(11) and 417 apply to benefits that were nonforfeitable immediately prior to death (determined without regard to section 411(a)(3)(A)). Thus, in the case of the death of a married participant in a defined contribution plan not subject to section 412 which provides that, upon a participant's death, the entire nonforfeitable accrued benefit is payable to the participant's spouse, the nonforfeitable benefit is determined without regard to the provisions of section 411(a)(3)(A).

Q–14: Do sections 411(a)(11), 401(a)(11) and 417 apply to accumulated deductible employee contributions, as defined in section 72(o)(5)(B) (Accumulated DECs)?

A–14: (a) *Employee consent, section 411.* The requirements of section 411(a)(11) apply to Accumulated DECs. Thus, Accumulated DECs may not be distributed without participant consent unless the applicable exemptions apply.

(b) *Survior requirements.* Accumulated DECs are treated as though held under a separate defined contribution plan that is not subject to section 412. Thus, section 401(a)(11) applies to Accumulated DECs only as provided in section 401(a)(11)(B)(iii). All Accumulated DECs are treated in this manner, including Accumulated DECs that are the only benefit held under a plan and Accumulated DECs that are part of a defined benefit or a defined contribution plan.

(c) *Effective date.* Sections 401(a)(11) and 411(a)(11) shall not apply to distributions of accumulated DECs until the first plan year beginning after December 31, 1988.

Q–15: How do the survivor annuity requirements of sections 401(a)(11) and 417 apply to a defined benefit plan that includes an accrued benefit based upon a contribution to a separate account or mandatory employee contributions?

A–15: (a) *414(k) plans.* In the case of a section 414(k) plan that includes both a defined benefit plan and a separate account, the rules of sections 401(a)(11) and 417 apply separately to the defined benefit portion and the separate account portion of the plan. The separate account portion is subject to the survivor annuity requirements of sections 401(a)(11) and 417 and the special QPSA rules in section 417(c)(2).

(b) *Employee contributions*—(1) *Voluntary.* In the case of voluntary employee contributions to a defined benefit plan, the plan must maintain a separate account with respect to the voluntary employee contributions. This separate account is subject to the survivor annuity requirements of sections 401(a)(11) and 417 and the special QPSA rules in section 417(c)(2).

(2) *Mandatory.* In the case of a defined benefit plan providing for mandatory employee contributions, the entire accrued benefit is subject to the survivor annuity requirements of sections 401(a)(11) and 417 as a defined benefit plan.

(c) *Accumulated DECs.* See Q&A 14 of this section for the rule applicable to accumulated deductible employee contributions.

Q–16: Can a plan provide a benefit form more valuable than the QJSA and if a plan offers more than one annuity option satisfying the requirements of a QJSA, is spousal consent required when the participant chooses among the various forms?

A–16: In the case of an unmarried participant, the QJSA may be less valuable than other optional forms of benefit payable under the plan. In the case of married participant, the QJSA must be at least as valuable as any other optional form of benefit payable under the plan at the same time. Thus, if a plan has two joint and survivor annuities that would satisfy the

requirements for a QJSA, but one has a greater actuarial value than the other, the more valuable joint and survivor annuity is the QJSA. If there are two or more actuarially equivalent joint and survivor annuities that satisfy the requirements for a QJSA, the plan must designate which one is the QJSA and, therefore, the automatic form of benefit payment. A plan, however, may allow a participant to elect out of such a QJSA, without spousal consent, in favor of another actuarially equivalent joint and survivor annuity that satisfies the QJSA conditions. Such an election is not subject to the requirement that it be made within the 90-day period before the annuity starting date. For example, if a plan designates a joint and 100% survivor annuity as the QJSA and also offers an actuarially equivalent joint and 50% survivor annuity that would satisfy the requirements of a QJSA, the participant may elect the joint and 50% survivor annuity without spousal consent. The participant, however, does need spousal consent to elect a joint and survivor annuity that was not actuarially equivalent to the automatic QJSA.

Q–17: When must distributions to a participant under a QJSA commence?

A–17: (a) *QJSA benefits upon earliest retirement.* A plan must permit a participant to receive a distribution in the form of a QJSA when the participant attains the earliest retirement age under the plan. Written consent of the participant is required. However, the consent of the participant's spouse is not required. Any payment not in the form of a QJSA is subject to spousal consent. For example, if the participant separates from service under a plan that allows for distributions on separation from service or if a plan allows for in-service distributions, the participant may receive a QJSA without spousal consent in such events. Payments in any other form, including a single sum, would require waiver of the QJSA by the participant's spouse.

(b) *Earliest retirement age.* (1) This paragraph (b) defines the term "earliest retirement age" for purposes of sections 401(a)(11), 411(a)(11) and 417.

(2) In the case of a plan that provides for voluntary distributions that commence upon the participant's separation from service, earliest retirement age is the earliest age at which a participant could separate from service and receive a distribution. Death of a participant is treated as a separation from service.

(3) In the case of a plan that provides for in-service distributions, earliest retirement age is the earliest age at which such distributions may be made.

(4) In the case of a plan not described in subparagraph (2) or (3) of this paragraph, the rule below applies. Earliest retirement age is the early retirement age determined under the plan, or if no early retirement age, the normal retirement age determined under the plan. If the participant dies or separates from service before such age, then only the participant's actual years of service at the time of the participant's separation from service or death are taken into account. Thus, in the case of a plan under which benefits are not payable until the attainment of age 65, or upon attainment of age 55 and completion of 10 years of service, the earliest retirement age of a participant who died or separated from service with 8 years of service is when the participant whould have attained age 65 (if the participant had survived). On the other hand, if a participant died or separated from service after 10 years of service, the earliest retirement age is when the participant would have attained age 55 (if the participant had survived).

Q–18: What is a qualified preretirement survivor annuity (QPSA) in a defined benefit plan?

A–18: A QPSA is an immediate annuity for the life of the surviving spouse of a participant. Each payment under a QPSA under a defined benefit plan is not to be less than the payment that would have been made to the survivor under the QJSA payable under the plan if (a) in the case of a participant who dies after attaining the earliest retirement age under the plan, the participant had retired with a QJSA on the day before the participant's death, and (b) in the case of a participant who dies on or before the participant's earliest retirement age under the plan, the participant had separated from service at the earlier of the actual time of separation or death, survived until the earliest retirement age, retired at that time with a QJSA, and died on the day thereafter. If the participant elects before the annuity starting date a form of joint and survivor annuity that satisfies the requirements for a QJSA and dies before the annuity starting date, the elected form is treated as the QJAS and the QPSA must be based on such form.

Q–19: What rules apply in determining the amount and forfeitability of a QPSA?

A–19: The QPSA is calculated as of the earliest retirement age if the participant dies before such time, or at death if the participant dies after the earliest retirement age. The plan must make reasonable actuarial adjustments to reflect a payment earlier or later than the earliest retirement age. A defined benefit plan may provide that the QPSA is forfeited if the spouse does not survive until the date prescribed under the plan for commencement of the QPSA (*i.e.*, the earliest retirement age). Similarly, if the spouse survives past the participant's earliest retirement age (or other earlier QPSA distribution date under the plan) and elects after the death of the participant to defer the commencement of the QPSA to a later date, a defined benefit plan may provide for a forfeiture of the QPSA benefit if the spouse does not survive until the deferred commencement date. The account balance in a defined contribution plan may not be forfeited even though the spouse does not survive until the time the account balance is used to purchase the QPSA. See Q&A–17 of this section for the meaning of earliest retirement age.

Q–20: What preretirement survivor annuity benefits must a defined contribution plan subject to the survivor annuity requirements of sections 401(a)(11) and 417 provide?

A–20: A defined contribution plan that is subject to the survivor annuity requirements of sections 401(a)(11) and 417 must provide a preretirement survivor annuity with a value which is not less than 50 percent of the nonforfeitable account balance of the participant as of the date of the participant's death. If a contributory defined contribution plan has a forfeiture provision permitted by section 411(a)(3)(A), not more than a proportional percent of the account balance attributable to contributions that may not be forfeited at death (for example, employee and section 401(k) contributions) may be used to satisfy the QPSA benefit. Thus, for example, if the QPSA benefit is to be provided from 50 percent of the account balance, not more than 50 percent of the nonforfeitable contributions may be used for the QPSA.

Q–21: May a defined benefit plan charge the participant for the cost of the QPSA benefit?

A–21: Prior to the later of the time the plan allows the participant to waive the QPSA or provides notice of the ability to waive the QPSA, a defined benefit plan may not charge the participant for the cost of the QPSA by reducing the participant's plan benefits or by any other method. The preceding sentence does not apply to any charges prior to the first plan year beginning after December 31, 1988. Once the participant is given the opportunity to waive the QPSA or the notice of the QPSA is later, the plan may charge the participant for the cost of the QPSA. A charge for the

QPSA that reasonably reflects the cost of providing the QPSA will not fail to satisfy section 411 even if it reduces the accrued benefit.

Q–22: When must distributions to a surviving spouse under a QPSA commence?

A–22: (a) In the case of a defined benefit plan, the plan must permit the surviving spouse to direct the commencement of payments under QPSA no later than the month in which the participant would have attained the earliest retirement age. However, a plan may permit the commencement of payments at an earlier date.

(b) In the case of a defined contribution plan, the plan must permit the surviving spouse to direct the commencement of payments under the QPSA within a reasonable time after the participant's death.

Q–23: Must a defined benefit plan obtain the consent of a participant and the participant's spouse to commence payments in the form of a QJSA in order to avoid violating section 415 or 411(b)?

A–23: No. A defined benefit plan may commence distributions in the form of a QJSA without the consent of the participant and spouse, even if consent would otherwise be required (see § 1.417(e)–1(b)), to the extent necessary to avoid a violation of section 415 or 411(b). For example, assume a plan has a normal retirement age of 55. A is a married participant, age 55, and has accrued a $75,000 joint and 100 percent survivor annuity that satisfies section 415. If an actuarial increase would be required under section 411 because of deferred commencement and the increase would cause the benefit to exceed the applicable limit under section 415, the plan may commence payment of a QJSA at age 55 without the participant's election or consent and without the spouse's concent.

Q–24: What are the rules under sections 401(a)(11) and 417 applicable to plan loans?

A–24: (a) *Consent rules.* (1) A plan does not satisfy the survivor annuity requirements of sections 401(a)(11) and 417 unless the plan provides that, at the time the participant's accrued benefit is used as security for a loan, spousal consent to such use is obtained. Consent is required even if the accrued benefit is not the primary security for the loan. No spousal consent is necessary if, at the time the loan is secured, no consent would be required for a distribution under section 417(a)(2)(B). Spousal consent is not required if the plan or the participant is not subject to section 401(a)(11) at the time the accrued benefit is used as security, or if the total accrued benefit subject to the security is not in excess of $3,500. The spousal consent must be obtained no earlier than the beginning of the 90-day period that ends on the date on which the loan is to be so secured. The consent is subject to the requirements of section 417(a)(2). Therefore, the consent must be in writing, must acknowledge the effect of the loan and must be witnessed by a plan representative or a notary public.

(2) Participant consent is deemed obtained at the time the participant agrees to use his accrued benefit as security for a loan for purposes of satisfying the requirements for participant consent under sections 401(a)(11), 411(a)(11) and 417.

(b) *Change in status.* If spousal consent is obtained or is not required under paragraph (a) of this Q&A 24 at the time the benefits are used as security, spousal consent is not required at the time of any setoff of the loan against the accrued benefit resulting from a default, even if the participant is married to a different spouse at the time of the setoff. Similarly, in the case of a participant who secured a loan while unmarried, no consent is required at the time of a setoff of the loan against the accrued benefit even if the participant is married at the time of the setoff.

(c) *Renegotiation.* For the purposes of obtaining any required spousal consent, any renegotiation, extension, renewal, or other revision of a loan shall be treated as a new loan made on the date of the renegotiation, extension, renewal, or other revision.

(d) *Effect on benefits.* For purposes of determining the amount of a QPSA or QJSA, the accrued benefit of a participant shall be reduced by any security interest held by the plan by reason of a loan outstanding to the participant at the time of death or payment, if the security interest is treated as payment in satisfaction of the loan under the plan. A plan may offset any loan outstanding at the participant's death which is secured by the participant's account balance against the spousal benefit required to be paid under section 401(a)(11)(B)(iii).

(e) *Effective date.* Loans made prior to August 19, 1985, are deemed to satisfy the consent requirements of paragraph (a) of this Q&A 24.

Q–25: How do the survivor annuity requirements of sections 401(a)(11) and 417 apply with respect to participants who are not married or to surviving spouses and participants who have a change in marital status?

A–25: (a) *Unmarried participant rule.* Plans subject to the survivor annuity requirements of sections 401(a)(11) and 417 must satisfy those requirements applicable to QJSAs with respect to participants who are not married. A QJSA for a participant who is not married is an annuity for the life of the participant. Thus, an unmarried participant must be provided the written explanation described in section 417(a)(3)(A) and a single life annuity unless another form of benefit is elected by the participant. An unmarried participant is deemed to have waived the QPSA requirements. This deemed waiver is null and void if the participant later marries.

(b) *Marital status change.*—(1) *Remarriage.* If a participant is married on the date of death, payments to a surviving spouse under a QPSA or QJSA must continue even if the surviving spouse remarries.

(2) *One-year rule.* (i) A plan is not required to treat a participant as married unless the participant and the participant's spouse have been married throughout the one-year period ending on the earlier of (A) the participant's annuity starting date or (B) the date of the participant's death. Nevertheless, for purposes of the preceding sentence, a participant and the participant's spouse must be treated as married throughout the one-year period ending on the participant's annuity starting date even though they are married to each other for less than one year before the annuity starting date if they remain married to each other for at least one year. See section 417(d)(2). If a plan adopts the one-year rule provided in section 417(d), the plan must treat the participant and spouse who are married on the annuity starting date as married and must provide benefits which are to commence on the annuity starting date in the form of a QJSA unless the participant (with spousal consent) elects another form of benefit. The plan is not required to provide the participant with a new or retroactive election or the spouse with a new consent when the one-year period is satisfied. If the participant and the spouse do not remain married for at least one year, the plan may treat the participant as having not been married on the annuity starting date. In such event, the plan may provide that the spouse loses any survivor benefit right; further, no retroactive correction of the amount paid the participant is required.

(ii) *Example.* Plan X provides that participants who are married on the annuity starting date for less than one year are treated as unmarried participants. Plan X provides benefits in the form of a QJSA or an optional single sum distribution. Participant A was married 6 months prior to the annuity starting date. Plan X must treat A as married and must commence payments to A in the form of a QJSA unless another form of benefit

is elected by A with spousal consent. If a QJSA is paid and A is divorced from his spouse S, within the first year of the marriage, S will no longer have any survivor rights under the annuity (unless a QDRO provides otherwise). If A continues to be married to S, and A dies within the one-year period, Plan X may treat A as unmarried and forfeit the OJSA benefit payable to S.

(3) *Divorce.* If a participant divorces his spouse prior to the annuity starting date, any elections made while the participant was married to his former spouse remain valid, unless otherwise provided in a QDRO, or unless the participant changes them or is remarried. If a participant dies after the annuity starting date, the spouse to whom the participant was married on the annuity starting date is entitled to the QJSA protection under the plan. The spouse is entitled to this protection (unless waived and consented to by such spouse) even if the participant and spouse are not married on the date of the participant's death, except as provided in a QDRO.

Q–26: In the case of a defined contribution plan not subject to section 412, does the requirement that a participant's nonforfeitable accrued benefit be payable in full to a surviving spouse apply to a spouse who has been married to the participant for less than one year?

A–26: A plan may provide that a spouse who has not been married to a participant throughout the one-year period ending on the earlier of (a) the participant's annuity starting date or (b) the date of the participant's death is not treated as a surviving spouse and is not required to receive the participant's account balance. The special exception described in section 417(d)(2) and Q&A 25 of this section does not apply.

Q–27: Are there circumstances when spousal consent to a participant's election to waive the QJSA or the QPSA is not required?

A–27: Yes. If it is established to the satisfaction of a plan representative that there is no spouse or that the spouse cannot be located, spousal consent to waive the QJSA or the QPSA is not required. If the spouse is legally incompetnent to give consent, the spouse's legal guardian, even if the guardian is the participant, may give consent. Also, if the participant is legally separated or the participant has been abandoned (within the meaning of local law) and the participant has a court order to such effect, spousal consent is not required unless a QDRO provides otherwise. Similar rules apply to a plan subject to the requirements of section 401(a)(11)(B)(iii)(I).

Q–28: Does consent contained in an antenuptial agreement or similar contract entered into prior to marriage satisfy the consent requirements of sections 401(a)(11) and 417?

A–28: No. An agreement entered into prior to marriage does not satisfy the applicable consent requirements, even if the agreement is executed within the applicable election period.

Q–29: If a participant's spouse consents under section 417(a)(2)(A) to the participant's waiver of a survivor annuity form of benefit, is a subsequent spouse of the same participant bound by the consent?

A–29: No. A consent under section 417(a)(2)(A) by one spouse is binding only with respect to the consenting spouse. See Q&A–24 of this section for an exception in the case of plan benefits securing plan loans.

Q–30: Does the spousal consent requirement of section 417(a)(2)(A) require that a spouse's consent be revocable?

A–30: No. A plan may preclude a spouse from revoking consent once it has been given. Alternatively, a plan may also permit a spouse to revoke a consent after it has been given, and thereby to render ineffective the participant's prior election not to receive a QPSA or QJSA. A participant must always be allowed to change his election during the applicable election period. Spousal consent is required in such cases to the extent provided in Q&A 31, except that spousal consent is never required for a QJSA or QPSA.

Q–31: What rules govern a participant's waiver of a QPSA or QJSA under section 417(a)(2)?

A–31: (a) *Specific beneficiary.* Both the participant's waivers of a QPSA and QJSA and the spouse's consents thereto must state the specific nonspouse beneficiary (including any class of beneficiaries or any contingent beneficiaries) who will receive the benefit. Thus, for example, if spouse B consents to participant A's election to waive a QPSA, and to have any benefits payable upon A's death before the annuity starting date paid to A's children, A may not subsequently change beneficiaries without the consent of B (except if the change is back to a QPSA). If the designated beneficiary is a trust, A's spouse need only consent to the designation of the trust and need not consent to the designation of trust beneficiaries or any changes of trust beneficiaries.

(b) *Optional form of benefit*—(1) *QJSA.* Both the participant's waiver of a QJSA (and any required spouse's consent thereto) must specify the particular optional form of benefit. The participant who has waived a QJSA with the spouse's consent in favor of another form of benefit may not subsequently change the optional form of benefit without obtaining the spouse's consent (except back to a QJSA). Of course, the participant may change the form of benefit if the plan so provides after the spouse's death or a divorce (other than as provided in a QDRO). A participant's waiver of a QJSA (and any required spouse's consent thereto) made prior to the first plan year beginning after December 31, 1986, is not required to specify the optional form of benefit.

(2) *QPSA.* A participant's waiver of a QPSA and the spouse's consent thereto are not required to specify the optional form of any preretirement benefit. Thus, a participant who waives the QPSA with spousal consent may subsequently change the form of the preretirement benefit, but not the nonspouse beneficiary, without obtaining the spouse's consent.

(3) *Change in form.* After the participant's death, a beneficiary may change the optional form of survivor benefit as permitted by the plan.

(c) *General consent.* In lieu of satisfying paragraphs (a) and (b) of this Q&A 31, a plan may permit a spouse to execute a general consent that satisfies the requirements of this paragraph (c). A general consent permits the participant to waive QPSA or QJSA, and change the designated beneficary or the optional form of benefit payment without any requirement of further consent by such spouse. No general consent is valid unless the general consent acknowledges that the spouse has the right to limit consent to a specific beneficiary and a specific optional form of benefit, where applicable, and that the spouse voluntarily elects to relinquish both of such rights. Notwithstanding the previous sentence, a spouse may execute a general consent that is limited to certain beneficiaries or forms of benefit payment. In such case, paragraphs (a) and (b) of this Q&A 31 shall apply to the extent that the limited general consent is not applicable and this paragraph (c) shall apply to the extent that the limited general consent is applicable. A general consent, including a limited general consent, is not effective unless it is made during the applicable election period. A general consent executed prior to October 22, 1986 does not have to satisfy the specificity requirements of this Q&A 31.

Q–32: What rules govern a participant's waiver of the spousal benefit under section 401(a)(11)(B)?

A–32: (a) *Application.* In the case of a defined contribution plan that is not

subject to the survivor annuity requirements of sections 401(a)(11) and 417, a participant may waive the spousal benefit of section 401(a)(11)(B)(iii) if the conditions of paragraph (b) are satisfied. In general, a spousal benefit is the nonforfeitable account balance on the participant's date of death.

(b) *Conditions.* In general, the same conditions, other than the age 35 requirement, that apply to the participant's waiver of a QPSA and the spouse's consent thereto apply to the participant's waiver of the spousal benefit and the spouse's consent thereto. See Q&A–31. Thus, the participant's waiver of the spousal benefit must state the specific nonspouse beneficiary who will receive such benefit. The waiver is not required to specify the optional form of benefit. The participant may change the optional form of benefit, but not the nonspouse beneficiary, without obtaining the spouse's consent.

Q–33: When and in what manner, may a participant waive a spousal benefit or a QPSA?

A–33: (a) *Plans not subject to section 401(a)(11).* A participant in a plan that is not subject to the survivor annuity requirements of section 401(a)(11) (because of subparagraph (B)(iii) thereof) may waive the spousal benefit at any time, provided that no such waiver shall be effective unless the spouse has consented to the waiver. The spouse may consent to a waiver of the spousal benefit at any time, even prior to the participant attaining age 35. No spousal consent is required for a payment to the participant or the use of the accrued benefit as security for a plan loan to the participant.

(b) *Plans subject to section 401(a)(11).* A participant in a plan subject to the survivor annuity requirements of section 401(a)(11) generally may waive the QPSA benefit (with spousal consent) only on or after the first day of the plan year in which the participant attains age 35. However, a plan may provide for an earlier waiver (with spousal consent), provided that a written explanation of the QPSA is given to the participant and such waiver becomes invalid upon the beginning of the plan year in which the participant's 35th birthday occurs. If there is no new waiver after such date, the participant's spouse must receive the QPSA benefit upon the participant's death.

Q–34: Must the written explanations required by section 417(a)(3) be provided to nonvested participants?

A–34: Such written explantions must be provided to nonvested participants who are employed by an employer maintaining the plan. Thus, they are not required to be provided to those nonvested participants who are no longer employed by such an employer.

Q–35: When must a plan provide the written explanation, required by section 417(a)(3)(B), of the QPSA to a participant?

A–35: (a) *General rule.* A plan must provide the written explanation of the QPSA to a participant within the applicable period. Except as provided in paragraph (b), the applicable period means, with respect to a participant, whichever of the following periods ends last:

(1) The period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35.

(2) A reasonable period ending after the individual becomes a participant.

(3) A reasonable period ending after the QPSA is no longer fully subsidized.

(4) A reasonable period ending after section 401(a)(11) first applies to the participant. Section 401(a)(11) would first apply when a benefit is transferred from a plan not subject to the survivor annuity requirements of section 401(a)(11) to a plan subject to such section or at the time of a election of an annuity under a defined contribution plan described in section 401(a)(11)(B)(iii).

(b) *Pre-35 separations.* In the case of a participant who separates from service before attaining age 35, the applicable period means the period beginning one year before the separation from service and ending one year after such separation. If such a participant returns to service, the plan must also comply with pragraph (a).

(c) *Reasonable period.* For purposes of applying paragraph (a), a reasonable period ending after the enumerated events described in paragraphs (a) (2), (3) and (4) is the end of the one-year period beginning with the date the applicable event occurs. The applicable period for such events begins one year prior to the occurrence of the enumerated events.

(d) *Transition rule.* In the case of an individual who was a participant in the plan on August 23, 1984, and, as of that date had attained age 34, the plan will satisfy the requriement of section 417(a)(3)(B) if it provided the explanation not later than December 31, 1985.

Q–36: How do plans satisfy the requirements of providing participants explanations of QPSAs and QJSAs?

A–36: Section 417(a)(3) sets forth the requirements for providing plan participants written explanations of QPSAs and QJSAs. The requirement that the terms and conditions of the QJSA or QPSA, as the case may be, be furnished to participants is not satisfied unless the written explanation complies with the requirements set forth in § 1.401(a)–11(c)(3). Also, for plan years beginning after December 31, 1988, participants must be furnished a general description of the eligibility conditions and other material features of the optional forms of benefit and sufficient additional information to explain the relative values of the optional forms of benefit available under the plan (*e.g.*, the extent to which optional forms are subsidized relative to the normal form of benefit or the interest rates used to calculate the optional forms).

Q–37: What are the consequences of fully subsidizing the cost of either a QJSA or a QPSA in accordance with section 417(a)(5)?

A–37: If a plan fully subsidizes a QJSA or QPSA in accordance with section 417(a)(5) and does not allow a participant to waive such QJSA or QPSA or to select a nonspouse beneficiary, the plan is not required to provide the written explanation required by section 417(a)(3). However, if the plan offers an election to waive the benefit or designate a beneficiary, it must satisfy the election, consent, and notice requirements of section 417(a) (1), (2), and (3), with respect to such subsidized QJSA or QPSA, in accordance with section 417(a)(5).

Q–38: What is a fully subsidized benefit?

A–38: (a) *QJSA*—(1) *General rule.* A fully subsidized QJSA is one under which no increase in cost to, or decrease in actual amounts received by, the participant may result from the participant's failure to elect another form of benefit.

(2) *Examples.*

Example (1). If a plan provides a joint and survivor annuity and a single sum option, the plan does not fully subsidize the joint and survivor annuity, regardless of the actuarial value of the joint and survivor annuity because, in the event of the participant's early death, the participant would have received less under the annuity than he would have received under the single sum option.

Example (2). If a plan provides for a life annuity of $100 per month and a joint and 100% survivor benefit of $99 per month, the plan does not fully subsidize the joint and survivor benefit.

(b) *QPSA.* A QPSA is fully subsidized if the amount of the participant's benefit is not reduced because of the QPSA coverage and if no charge to the participant under the plan is made for the coverage. Thus, a QPSA is fully

subsidized in a defined contribution plan.

Q–39: When do the survivor annuity requirements of sections 401(a)(11) and 417 apply to plans?

A–39: Sections 401(a)(11) and 417 generally apply to plan years beginning after December 31, 1984. Sections 302 and 303 of REA 1984 provide specific effective dates and transitional rules under which the QJSA or QPSA (or pre-REA 1984 section 401(a)(11)) requirements may be applicable to particular plans or with respect to benefits provided to (as amended by REA 1984) particular participants. In general, the section 401(a)(11) (as amended by REA 1984) survivor annuity requirements do not apply with respect to a participant who does not have at least one hour of service or one hour of paid leave under the plan after August 22, 1984.

Q–40: Are there special effective dates for plans maintained pursuant to collective bargaining agreements?

A–40: Yes. Section 302(b) of REA 1984 as amended by section 1898(g) of the Tax Reform Act of 1986 provides a special deferred effective date for such plans. Whether a plan is described in section 302(b) of REA 1984 is determined under the principles applied under section 1017(c) of the Employee Retirement Income Security Act of 1974. See H.R. Rep. No. 1280, 93d Cong., 2d Sess. 266 (1974). In addition, a plan will not be treated as maintained under a collective bargaining agreement unless the employee representatives satisfy section 7701(a)(46) of the Internal Revenue Code after March 31, 1984. See § 301.7701–17T for other requirements for a plan to be considered to be collectively bargained. Nothing in section 302(b) of REA 1984 denies a participant or spouse the rights set forth in sections 303(c)(2), 303(c)(3), 303(e)(1), and 303(e)(2) of REA 1984.

Q–41: What is one hour of service or paid leave under the plan for purposes of the transition rules in section 303 of REA 1984?

A–41: One hour of service or paid leave under the plan is one hour of service or paid leave recognized or required to be recognized under the plan for any purpose, *e.g.*, participation, vesting percentage, or benefit accrual purposes. For plans that do not compute hours of service, one hour of service or paid leave means any service or paid leave recognized or required to be recognized under the plan for any purpose.

Q–42: Must a plan be amended to provide for the QPSA required by section 303(c)(2) of REA 1984, or for the survivor annuities required by section 303(e) of REA 1984?

A–42: A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it is not amended to provide the QPSA required by section 303(c)(2) or the survivor annuities required by section 303(e). The plan must, however, satisfy those requirements in operation.

Q–43: Is a participant's election, or a spouse's consent to an election, with respect to a QPSA, made before August 23, 1984, valid?

A–43: No.

Q–44: Is spousal consent required for certain survivor annuity elections made by the participant after December 31, 1984, and before the first plan year to which new sections 401(a)(11) and 417 apply?

A–44: Yes. Section 303(c)(3) of REA 1984 provides that any election not to take a QJSA made after December 31, 1984, and before the date sections 401(a)(11) and 417 apply to the plan by a participant who has 1 hour of service or leave under the plan after August 23, 1984, is not effective unless the spousal consent requirements of section 417 are met with respect to such election. Unless the participant's annuity starting date occurred before January 1, 1985, the spousal consent required by section 417 (a)(2) and (e) must be obtained even though the participant elected the benefit prior to January 1, 1985. The plan is not required to be amended to comply with section 303(c)(3) of REA 1984, but the plan must satisfy this requirement in operation.

Q–45: Are there special rules for certain participants who separated from service prior to August 23, 1984?

A–45: Yes. Section 303(e) of REA 1984 provides special rules for certain participants who separated from service before August 23, 1984. Section 303(e)(1), which applies only to plans subject to section 401(a)(11) of the Code (as in effect on August 22, 1984), provides that participants whose annuity starting date did not occur before August 24, 1984, and who had one hour of service on or after September 2, 1974, but not in a plan year beginning after December 31, 1975, may elect to receive the benefits required to be provided under section 401(a)(11) of the Code (as in effect on August 22, 1984). Section 303(e)(2) provides that certain participants who had one hour of service in a plan year beginning on or after January 1, 1976, but not after August 22, 1984, may elect QPSA coverage under new sections 401(a)(11) and 417 in plans subject to these provisions. Section 303(e)(4)(A) requires plans or plan administrators to notify those participants of the provisions of section 303(e).

Q–46: When must a plan provide the notice required by section 303(e)(4)(A) of REA 1984?

A–46: The notice required by section 303(e)(4)(A) must be provided no later than the earlier of:

(a) The date the first summary annual report provided after September 17, 1985, is distributed to participants; or

(b) September 30, 1985.

A plan will not fail to satisfy the preceding sentence if the plan provides a fully subsidized QPSA with respect to any participant described in section 303(e) who dies on or after July 19, 1985, and before the notice is received. If the plan ceases to fully subsidize the QPSA, the cessation must not be effective until the notice is given. For this purpose, an annuity payable to a nonspouse beneficiary elected by the participant, in lieu of a spouse, shall satisfy the QPSA requirement, so long as the survivor benefit is fully subsidized. The notice required by this paragraph must be in writing and sent to the participant's last known address.

Q–47: Is there another time when plans must provide notice of the right, described in section 303(e)(1) of REA '84, to elect a pre-REA 1984 qualified joint and survivor annuity?

A–47: Yes. Notice of this right must also be provided to a participant at the time the participant applies for benefit payments.

§ 1.401(a)–13T [Removed]

Par. 4. Section 1.401(a)–13T is removed. Section 1.401(a)–13 is amended by adding a new paragraph (g) to read as follows:

§ 1.401(a)–13 Assignment or alienation of benefits.

* * * * *

(g) *Special rules for qualified domestic relations orders*—(1) *Definition.* The term "qualified domestic relations order" (QDRO) has the meaning set forth in section 414(p). For purposes of the Internal Revenue Code, a QDRO also includes any domestic relations order described in section 303(d) of the Retirement Equity Act of 1984.

(2) *Plan amendments.* A plan will not fail to satisfy the qualification requirements of section 401(a) or 403(a) merely because it does not include provisions with regard to a QDRO.

(3) *Waiver of distribution requirements.* A plan shall not be treated as failing to satisfy the requirements of sections 401 (a) and (k) and 409(d) solely because of a payment

to an alternate payee pursuant to a QDRO. This is the case even if the plan provides for payments pursuant to a QDRO to an alternate payee prior to the time it may make payments to a participant. Thus, for example, a pension plan may pay an alternate payee even though the participant may not receive a distribution because he continues to be employed by the employer.

(4) *Coordination with section 417*—(i) *Former spouse.* (A) *In general.* Under section 414(p)(5), a QDRO may provide that a former spouse shall be treated as the current spouse of a participant for all or some purposes under sections 401(a)(11) and 417.

(B) *Consent.* (*1*) To the extent a former spouse is treated as the current spouse of the participant by reason of a QDRO, any current spouse shall not be treated as the current spouse. For example, assume H is divorced from W, but a QDRO provides that H shall be treated as W's current spouse with respect to all of W's benefits under a plan. H will be treated as the surviving spouse under the QPSA and QJSA unless W obtains H's consent to waive the QPSA or QJSA or both. The fact that W married S after W's divorce from H is disregarded. If, however, the QDRO had provided that H shall be treated as W's current spouse only with respect to benefits that accrued prior to the divorce, then H's consent would be needed by W to waive the QPSA or QJSA with respect to benefits accrued before the divorce. S's consent would be required with respect to the remainder of the benefits.

(*2*) In the preceding examples, if the QDRO ordered that a portion of W's benefit (either through separate accounts or a percentage of the benefit) must be distributed to H rather than ordering that H be treated as W's spouse, the survivor annuity requirements of sections 401(a)(11) and 417 would not apply to the part of W's benefit awarded H. Instead, the terms of the QDRO would determine how H's portion of W's accrued benefit is paid. W is required to obtain S's consent if W elects to waive either the QJSA or QPSA with respect to the remaining portion of W's benefit.

(C) *Amount of the QPSA or QJSA.* (*1*) Where, because of a QDRO, more than one individual is to be treated as the surviving spouse, a plan may provide that the total amount to be paid in the form of a QPSA or survivor portion of a QJSA may not exceed the amount that would be paid if there were only one surviving spouse. The QPSA or survivor portion of the QJSA, as the case may be, payable to each surviving spouse must be paid as an annuity based on the life of each such spouse.

(*2*) Where the QDRO splits the participant's accrued benefit between the participant and a former spouse (either through separate accounts or percentage of the benefit), the surviving spouse of the participant is entitled to a QPSA or QJSA based on the participant's accrued benefit as of the date of death or the annuity starting date, less the separate account or percentage that is payable to the former spouse. The calculation is made as if the separate account or percentage had been distributed to the participant prior to the relevant date.

(ii) *Current spouse.* Under section 414(p)(5), even if the applicable election periods (*i.e.*, the first day of the year in which the participant attains age 35 and 90 days before the annuity starting date) have not begun, a QDRO may provide that a current spouse shall not be treated as the current spouse of the participant for all or some purposes under sections 401(a)(11) and 417. A QDRO may provide that the current spouse waives all future rights to a QPSA or QJSA.

(iii) *Effects on benefits.* (A) A plan is not required to provide additional vesting or benefits because of a QDRO.

(B) If an alternative payee is treated pursuant to a QDRO as having an interest in the plan benefit, including a separate account or percentage of the participant's account, then the QDRO cannot provide the alternate payee with a greater right to designate a beneficiary for the alternate payee's benefit amount than the participant's right. The QJSA or QPSA provisions of section 417 do not apply to the spouse of an alternate payee.

(C) If the former spouse who is treated as a current spouse dies prior to the participant's annuity starting date, then any actual current spouse of the participant is treated as the current spouse, except as otherwise provided in a QDRO.

(iv) *Section 415 requirements.* Even though a participant's benefits are awarded to an alternate payee pursuant to a QDRO, the benefits are benefits of the participant for purposes of applying the limitations of section 415 to the participant's benefits.

§ 1.402(f)–1T [Removed]

Par. 5A. Section 1.402(f)–1T is removed. New § 1.402(f)–1 is added in its place immediately after § 1.402(e)–1 to read as follows:

§ 1.402(f)–1 Required explanation of rollovers, capital gains, and the separate tax on lump sum distributions.

(a) *General rules.* Section 402(f) requires plan administrators to give recipients of certain distributions a written explanation of the rules relating to the taxation of certain amounts as capital gains under section 402(a)(2), the separate tax on the ordinary income portion of lump sum distributions under section 402(e), and the exclusion from gross income under section 402(a)(5) for amounts rolled over into eligible retirement plans. This notice must be provided to the recipient of any qualified total distribution or any partial distribution satisfying section 402(a)(5)(D)(i) that is made after December 31, 1984, not later than two weeks after the distribution is made.

(b) *Future safe-harbor notices.* The Commissioner may publish safe-harbor notices to aid plan administrators in complying with the section 402(f) requirements.

§ 1.410(a)–5T [Removed]

Par. 6. Section 1.410(a)–5T is removed. New § 1.410(a)–8 is inserted in its place immediately after § 1.410(a)–7 to read as follows:

§ 1.410(a)–8 Five consecutive 1-year breaks in service, transitional rules under the Retirement Equity Act of 1984.

Sections 410(a)(5)(D) and 411(a)(6)(D), as amended by the Retirement Equity Act of 1984 (REA 1984), permit a plan to disregard years of service that were disregarded under the plan provisions satisfying those sections (as in effect on August 22, 1984) as of the day before the REA amendments apply to the plan. Under section 302(a) of REA 1984, the new break-in-service rules generally apply to plan years beginning after December 31, 1984. Thus, for example, assume a plan has a calendar plan year and disregarded years of service as permitted by sections 410(a)(5)(D) and 411(a)(6)(D) as in effect on August 22, 1984. An employee completed two years of service in 1981 and 1982, and then incurred two consecutive 1-year breaks in service in 1983 and 1984. The plans may disregard the prior years of service even though the employee did not incur five consecutive 1-year breaks in service. On the other hand, assume the employeer completed three consecutive years of service beginning in 1980, and incurred two 1-year breaks in service in 1983 and 1984. Because, as of December 31, 1984, the years of service credited before 1983 could not be disregarded, whether the plan may subsequently disregard those years of service would

be governed by the rules enacted by REA 1984.

§ 1.410(a)-7T [Removed]

Par. 7. Section 1.410(a)–7T is removed. New § 1.410(a)–9 is added in its place immediately after § 1.410(a)–8 to read as follows:

§ 1.410(a)-9 Maternity and paternity absence.

(a) *Elapsed time*—(1) *Rule.* For purposes of applying the rules of § 1.410(a)–7 (relating to the elapsed time method of crediting service) to absences described in sections 410(a)(5)(E) and 411(a)(6)(E) (relating to maternity or paternity absence), the severance from service date of an employee who is absent from service beyond the first anniversary of the first day of absence by reason of a maternity or paternity absence described in section 410(a)(5)(i)(E) or 411(a)(6)(i)(E) is the second anniversary of the first day of such absence. The period between the first and second anniversaries of the first day of absence from work is neither a period of service nor a period of severance. This rule applies to maternity and paternity absences beginning on or after the first day of the first plan year in which the plan is required to credit service under sections 410(a)(5)(E) and 411(a)(6)(E).

(2) *Example.* The rules of this section are illustrated by the following example:

Assume an individual works until June 30, 1986; is first absent from employment on July 1, 1986, on account of maternity or paternity absence; and on July 1, 1989, performs an hour of service. The period of service must include the period from employment commencement date until June 30, 1987 (one year after the date of separation for any reason other than a quit, discharge, retirement, or death). The period from July 1, 1987, to June 30, 1988, is neither a period of service nor a period of severance. The period of severance would be from July 1, 1988, to June 30, 1989.

(b) *Other methods.* This paragraph provides a safe harbor for plans that compute years of service under the hours of service methods or permitted equivalencies. Such a plan will be treated as satisfying the requirements of sections 410(a)(5)(E) and 411(a)(6)(E) if the plan increases the minimum period of consecutive 1-year breaks required to disregard any service (or deprive any employee of any right) by one. Thus, a plan will satisfy sections 410(a)(5)(E) and 411(a)(6)(E) without having to compute service for maternity or paternity and sections 410(a)(5)(D) and 411 (a)(4)(D) and (a)(6)(C), by increasing the period of consecutive breaks in service from 5 to 6.

Par. 8. Section 1.411(a)–7 is amended by revising paragraph (d)(2)(ii) (C), (D) and (E) and paragraph (d)(4) (i)(B) and (iv) to read as follows:

§ 1.411(a)-7 Definitions and special rules.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(C) In the case of both defined benefit plans and defined contribution plans, the plan repayment provision described in this subparagraph may provide that the employee must repay the full amount of the distribution in order to have the forfeited benefit restored. The plan provision may not require that such repayment be made sooner than the time described in paragraph (d)(2)(ii)(D) of this section.

(D)(*1*) If a distribution is on account of separation from service, the time for repayment may not end before the earlier of—

(*i*) 5 years after the first day the employee is subsequently employed, or

(*ii*) The close of the first period of consecutive 1-year breaks in service commencing after the distribution.

If the distribution occurs for any other reason, the time for repayment may not end earlier than 5 years after the date of distribution. Nevertheless, a plan provision may provide for a longer period in which the employee may repay. For example, a plan could allow repayments to be made at any time before normal retirement age.

(*2*) In the case of a plan utilizing the elapsed time method, described in § 1.410(a)–7, the minimum time for repayment shall be determined as in paragraph (d)(2)(ii)(D)(*1*) of this section except as provided in this subdivision. The 5 consecutive 1-year break periods shall be determined by substituting the term "1-year period of severance" for the term "1-year break in service". Also, the repayment period both commences and closes in a manner determined by the Commissioner that is consistent with the rules in § 1.410(a)–7 and the substitution in section 411(a)(6) (C) and (D) of a 5-year break in service rule for the former 1-year break in service rule.

(E) A defined benefit plan using the break in service rule described in section 410(a)(5)(D) or a defined contribution plan using the break in service rule described in section 411(a)(6)(C) for determining employees' accrued benefits is not required to provide for repayment by an employee whose accrued benefit is disregarded by reason of a plan provision using these rules.

* * * * *

(4) * * *

(i) * * *

(B) The requirements of section 411(a)(11) are satisfied at the time of the distribution. See § 1.411(a)(11)–1.

* * * * *

(iv) *Plan repayment provision.* (A) A plan repayment provision satisfies the requirements of this subdivision if, under the provision, the accrued benefit of an employee that is disregarded by a plan under this subparagraph is restored upon repayment to the plan by the employee of the full amount of the distribution. An accrued benefit is not restored unless all of the optional forms of benefit and subsidies relating to such benefit are also restored. A plan is not required to provide for repayment of an accrued benefit unless the employee—

(*1*) Received a distribution that is in a plan year to which section 411 applies (see § 1.411(a)–2), which distribution is less than the amount of his accrued benefit determined under the same optional form of benefit as the distribution was made, and

(*2*) Resumes employment covered under the plan.

(B) *Example.* Plan A provides a single sum distribution equal to the present value of the normal form of the accrued benefit payable at normal retirement age which is a single life annuity. Plan A also provides a subsidized joint and survivor annuity and a subsidized early retirement annuity benefit. A participant who is fully vested and receives a single sum distribution equal to the present value of the single life annuity normal retirement benefit is not required to be provided the right under the plan to repay the distribution upon subsequent reemployment even though the participant received a distribution that did not reflect the value of the subsidy in the joint and survivor annuity or the value of the early retirement annuity subsidy. This is true whether or not the participant had satisfied at the time of the distribution all of the conditions necessary to receive the subsidies. However, if a participant does not receive his total accrued benefit in the optional form of benefit under which his benefit was distributed, the plan must provide for repayment. If the employee repays the distribution in accordance with section 411(a)(7), the plan must restore the employee's accrued benefit which would include the right to receive the subsidized joint and survivor annuity and the subsidized early retirement annuity benefit.

(C) A plan may impose the same conditions on repayments for the restoration of employer-derived accrued benefits that are allowed as conditions for restoration of employer-derived accrued benefits upon repayment of mandatory contributions under

paragraphs (d)(2)(ii) (B), (C), (D) and (E) of this section.

* * * * *

§ 1.411(a)(11)–1T [Removed]

Par. 9. Section 1.411(a)(11)–1T is removed. New § 1.411(a)–11 is added in its place after § 1.411(a)–9 to read as follows:

§ 1.411(a)–11 Restriction and valuation of distributions.

(a) *Scope*—(1) *In general.* Section 411(a)(11) restricts the ability of a plan to distribute any portion of a participant's accrued benefit without the participant's consent. Section 411(a)(11) also restricts the ability of defined benefit plans to distribute any portion of a participant's accrued benefit in optional forms of benefit without complying with specified valuation rules for determining the amount of the distribution. If the consent requirements or the valuation rules of this section are not satisfied, the plan fails to satisfy the requirements of section 411(a).

(2) *Accrued benefit.* For purposes of this section, an accrued benefit is valued taking into consideration the particular optional form in which the benefit is to be distributed. The value of an accrued benefit is the present value of the benefit in the distribution form determined under the plan. For example, a plan that provides a subsidized early retirement annuity benefit may specify that the optional single sum distribution form of benefit available at early retirement age is the present value of the subsidized early retirement annuity benefit. In this case, the subsidized early retirement annuity benefit must be used to apply the valuation requirements of this section and the resulting amount of the single sum distribution. However, if a plan that provides a subsidized early retirement annuity benefit specifies that the single sum distribution benefit available at early retirement age is the present value of the normal retirement annuity benefit, then the normal retirement annuity benefit is used to apply the valuation requirements of this section and the resulting amount of the single sum distribution available at early retirement age.

(b) *General consent rules.* A plan must satisfy the participant consent requirement with respect to the distribution of a participant's nonforfeitable accrued benefit with a present value in excess of $3,500. See paragraphs (c) (3) and (4) for situations where no consent is required.

(c) *Consent, etc. requirements*—(1) *General rule.* If an accrued benefit is immediately distributable, section 411(a)(11) permits plans to provide for the distribution of any portion of a participant's nonforfeitable accrued benefits only if the applicable consent requirements are satisfied.

(2) *Consent.* (i) No consent is valid unless the participant has received a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the plan in a manner that would satisfy the notice requirements of section 417(a)(3). *See* § 1.401(a)–20 Q&A–36. In addition, so long as a benefit is immediately distributable, a participant must be informed of his right, if any, to defer receipt of the distribution. Furthermore, consent is not valid if a significant detriment is imposed under the plan on any participant who does not consent to a distribution. Whether or not a significant detriment is imposed shall be determined by the Commissioner by examining the particular facts and circumstances.

(ii) A plan must provide participants with notice of their rights specified in this subparagraph no less than 30 days and no more than 90 days before the annuity starting date. Written consent of the participant to the distribution must not be made before the participant receives the notice and must not be made more than 90 days before the annuity starting date. See § 1.401(a)–20 Q&A–10 for the definition of annuity starting date.

(iii) See § 1.401(a)–20 Q&A–24 for a special rule applicable to consents to plan loans.

(3) *$3,500.* Written consent of the participant is required before the commencement of the distribution of any portion of an accrued benefit if the present value of the nonforfeitable total accrued benefit is greater than $3,500. The consent requirements are deemed satisfied if such value does not exceed $3,500 and the plan may distribute such portion to the participant as a single sum. Present value for this purpose must be determined in the same manner as under section 417(e); see § 1.417(e)–1(d). If the present value determined at the time of a distribution to the participant exceeds $3,500, then the present value at any subsequent time shall be deemed to exceed $3,500.

(4) *Immediately distributable.* Participant consent is required for any distribution while it is immediately distributable, *i.e.*, prior to the later of the time a participant has attained normal retirement age (as defined in section 411(a)(8)) or age 62. Once a distribution is no longer immediately distributable, a plan may distribute the benefit in the form of a QJSA in the case of a benefit subject to section 417 or in the normal form in other cases without consent.

(5) *Death of participant.* The consent requirements of section 411(a)(11) do not apply after the death of the participant.

(6) *QDROs.* The consent requirements of section 411(a)(11) do not apply to payments to an alternate payee, defined in section 414(p)(8), except as provided in a qualified domestic relations order pursuant to section 414(p).

(7) *Section 401(a)(9), etc.* The consent requirements of section 411(a)(11) do not apply to the extent that a distribution is required to satisfy the requirements of section 401(a)(9) or 415. See section 401(a)(9) and the regulations thereunder and § 1.401(a)–20 Q&A 23 for guidance on these requirements. Notwithstanding any provision to the contrary in section 401(a)(14) or § 1.401(a)–14, a plan may not distribute a participant's nonforfeitable accrued benefit with a present value in excess of $3,500 while the benefit is immediately distributable unless the participant consents to such distribution. The failure of a participant to consent is deemed to be an election to defer commencement of payment of the benefit for purposes of section 401(a)(14) and § 1.401(a)–14.

(d) *Distribution valuation requirements.* In determining the present value of any distribution of any accrued benefit from a defined benefit plan, the plan must take into account specified valuation rules. For this purpose, the valuation rules are the same valuation rules for valuing distributions as set forth in section 417(e); see § 1.417(e)–1(d). This paragraph (d) applies both before and after the participant's death regardless of whether the accrued benefit is immediately distributable. This paragraph also applies whether or not the participant's consent is required under paragraphs (b) and (c) of this section.

(e) *Special rules*—(1) *Plan termination.* The requirements of this section apply before, on and after a plan termination. If a defined contribution plan terminates and the plan does not offer an annuity option (purchased from a commercial provider), then the plan may distribute a participant's accrued benefit without the participant's consent. The preceding sentence does not apply if the employer or any entity within the same controlled group as the employer maintains another defined contribution plan, other than an employee stock ownership plan (as defined in section 4975(e)(7)). In such a case, the participant's accrued benefit may be transferred without the participant's consent to the other plan if the participant does not consent to an

immediate distribution from the terminating plan. See section 411(d)(6) and the regulations thereunder for other rules applicable to transferee plans and plan terminations.

(2) *ESOP dividends.* The requirements of this section do not apply to any distribution of dividends to which section 404(k) applies.

(3) *Other rules.* See § 1.401(a)–20 Q&As 14, 17 and 24 for other rules that apply to the section 411(a)(11) requirements.

§ 1.411(d)–3 [Amended]

Par. 10. Section 1.411(d)–3 is amended by adding the following new sentence at the end of paragraph (a)(1): "See § 1.411(d)–4A for rules that apply to class year plans for contributions made for plan years beginning after October 22, 1986."

§ 1.411(d)–3T [Removed]

Par. 11. Section 1.411(d)–3T is removed. New § 1.411(d)–4 is added in its place immediately after § 1.411(d)–3 to read as follows:

§ 1.411(d)–4 Class year plans; plan years beginning after October 22, 1986.

(a) *Plan years beginning prior to 1989.* (1) The requirements of section 411(a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

(2) For purposes of paragraph (a)(1) of this section if—

(i) Any contributions are made on behalf of a participant with respect to any plan year, and

(ii) Before such participant meets the requirements of paragraph (a)(1) of this section, such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year, then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

(3) This paragraph (a) applies to contributions made for plan years beginning after October 22, 1986.

(b) *Plan years beginning after 1988.* (1) The special class year vesting rule in section 411(d)(4) was repealed by section 1113(b) of the Tax Reform Act of 1986 (1986 Act). The repeal is generally effective for plan years beginning after December 31, 1988. See section 1111(e) of the 1986 Act for a special effective date rule applicable to certain plans maintained pursuant to collectively bargaining agreements.

(2)(i) This subparagraph (2) provides a special rule for class year plans that were in compliance with section 411(d)(4) immediately before the first plan year beginning after section 411(d)(4) is repealed. These plans are not required to retroactively compute years of service under the general section 411(a)(2) rules. Instead, a participant must receive a year of service for each such prior plan year if the employee was performing services on the last day of such year. Similarly, if the participant was not performing services on the last day of such years, the participant will be treated as if a one-year break in service occurred for such plan year. This subdivision (i) applies to plan years to which this section applies.

(ii) In the case of a plan year to which § 1.411(d)–3 applied, a class year plan must compute years of service and breaks in service in a manner consistent with the rules in this paragraph (b)(2)(i), giving appropriate regard to the statutory changes made to section 411(d)(4).

§ 1.417(e)–1T [Removed]

Par. 12. Section 1.417(e)–1T is removed. New § 1.417(e)–1 is added in its place after § 1.416–1 to read as follows:

§ 1.417(e)–1 Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

(a) *Scope*—(1) *In general.* A plan does not satisfy the requirements of sections 401(a)(11) and 417 unless it satisfies the consent requirements, the determination of present value requirements and the other requirements set forth in this section. See section 401(a)(11) and § 1.401(a)–11A for other rules regarding the survivor annuity requirements.

(2) *Additional requirements.* See § 1.411(a)(11)–1(c)(6) for other rules applicable to the consent requirements.

(3) *Accrued benefit.* The definition of "accrued benefit" in § 1.411(a)(11)–1 applies when that term is used in this section.

(b) *Consent, etc. requirements*—(1) *General rule.* Generally plans may not commence the distribution of any portion of a participant's accrued benefit in any form unless the applicable consent requirements are satisfied. No consent of the participant or spouse is needed for distribution of a QJSA or QPSA after the benefit is no longer immediately distributable (after the participant attains (or would have attained if not dead) the later of normal retirement age (as defined in section 411(a)(8)) or age 62). No consent of the spouse is needed for distribution of a QJSA at any time. After the participant's death, a benefit may be paid to a nonspouse beneficiary without the beneficiary's consent. A distribution cannot be made at any time in a form other than a QJSA unless such QJSA has been waived by the participant and such waiver has been consented to by the spouse. A QJSA is an annuity that commences immediately. Thus, for example, a plan may not offer a participant separating from service at age 45 a choice only between a single sum distribution at separation of service and a joint and survivor annuity that satisfies all the requirements of a QJSA except that it commences at normal retirement age rather than immediately. To satisfy this section, the plan must also offer a QJSA (*i.e.*, an annuity that satisfies all the requirements for a QJSA including the requirement that it commences immediately).

(2) *Consent.* (i) Written consent of the participant and, if the participant is married at the annuity starting date and the benefit is to be paid in a form other than a QJSA, the participant's spouse (or, if either the participant or the spouse has died, the survivor) is required before the commencement of the distribution of any part of an accrued benefit if the present value of the nonforfeitable benefit is greater than $3,500. No consent is valid unless the participant has received a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the plan in a manner which would satisfy the notice requirements of section 417(a)(3). *See* § 1.401(a)–20 Q&A 36. No consent is required before the annuity starting date if the present value of the nonforfeitable benefit is not more than $3,500. If the present value of the accrued benefit at the time of any distribution exceeds $3,500, the present value of the accrued benefit at any subsequent time will be deemed to exceed $3,500.

(ii) In determining the present value of any nonforfeitable accrued benefit, a defined benefit plan is limited by the interest rate restriction as set forth in paragraph (d) of this section.

(3) *Time of consent.* A plan must provide participants with the written explanation of the QJSA required by section 417(a)(3) no less than 30 days and no more than 90 days before the annuity starting date. Written consent of the participant and the participant's

spouse to the distribution must be made not more than 90 days before the annuity starting date.

(c) *Permitted distributions.* A plan may not require that a participant or surviving spouse begin to receive benefits without satisfying paragraph (b) of this section while such benefits are immediately distributable (see paragraph (b)(1) of this section). Once benefits are no longer immediately distributable, all benefits that the plan requires to begin must be provided in the form of a QJSA and QPSA unless the applicable written explanation, election and consent requirement of section 417 are satisfied.

(d) *Present value requirement*—(1) *Requirements.* For purpose of determining the present value of any accrued benefit and for purposes of determining the amount (subject to sections 411(c)(3) and 415) of any distribution including a single sum, a defined benefit plan is subject to the interest rate limitations described in subparagraph (2) of this paragraph (d) at the time set forth in subparagraph (3) of this paragraph (d). A plan amendment that changes the rate described in this paragraph (d) is subject to section 411(d)(6). The present value of any optional form of benefit cannot be less than the present value of the normal retirement benefit determined in accordance with this paragraph.

(2) *Section 417 interest rate.* The section 417 interest rate is (i) the rate or rates that would be used by the Pension Benefit Guaranty Corporation (PBGC) for a trusteed single-employer plan to value the participant's (or beneficiary's) vested benefit ("applicable interest rate") if the present value of such benefit does not exceed $25,000 and (ii) 120 percent of the applicable interest rate, as determined in accordance with (i) above, if such present value exceeds $25,000. In no event shall the present value determined by use of 120 percent of the applicable interest rate result in a present value less than $25,000. The applicable interest rate may be a series of interest rates for any given date. For example, the applicable rate could be X percent for the first 5 years over which the benefits are valued, Y percent for the next succeeding 10 years and Z percent for the following years. In such case, 1.20 percent of the applicable interest rate would be 1.20 times X percent, 1.20 times Y percent and 1.20 times Z percent over the years described above. The applicable interest rates are the interest rates that would be used (as of the date of the distribution) by the PBGC for purposes of determining the present value of that benefit upon termination of an insufficient trusteed single-employer plan. Except as otherwise provided by the Commissioner, the applicable interest rates are determined by PBGC regulations. See 29 CFR Part 2619 for the applicable PBGC rates.

(3) *Time for determining interest rate.* (i) Except as provided in subdivision (ii), the section 417 interest rate limitations are determined on either the annuity starting date or the first day of the plan year that contains the annuity starting date. The plan must provide which date is applicable.

(ii) The plan may provide for the use of any other time for determining the interest rate provided that such time is not more than 120 days before the annuity starting date if such time is determined in a consistent manner and is applied uniformly to all participants.

(iii) The Commissioner may in revenue rulings, notices or other documents of general applicability prescribe other times for determining the section 417 interest rate limitations.

(iv) If a plan amendment changes the time for determining the section 417 interest rate, the amendment will not be treated as reducing an accrued benefit if the conditions of this subdivision (iv) are satisfied. Any distribution in the one-year period commencing at the time the plan amendment is effective (if the amendment is effective on or after the adoption date) must use the rate determined under the plan, either before or after the amendment, that results in the larger accrued benefit. If the plan amendment is adopted retroactively (that is, the amendment is effective prior to the adoption date), the plan must use the rate resulting in the larger accrued benefit for the period beginning with the effective date and ending one year after the adoption date.

(4) *Determination of interest rates.* (i) In the case of a defined benefit plan that uses a rate or rates in addition to the section 417 interest rate, the rate producing the greatest benefit must be used.

(ii) The same interest rate that is required to be used by the plan under this paragraph (d) to determine the amount of benefit must also be used to compute the present value of the benefit for purposes of determining whether consent for a distribution is required under paragraph (b) of this section.

(iii) *Example.* A qualified defined benefit plan provides that single sum distributions received on or before normal retirement age are to be determined using the lower of the rate(s) of interest guaranteed under a particular annuity contract of an unrelated insurance company or the applicable section 417 rates. The rates of interest guaranteed under the annuity contract are 10% for the first 5 years, 7.5% for the next 10 and 5% thereafter while the applicable section 417 interest rates would be 8% and 120% of such rate would be 9.6%. Because in some years over which a benefit is valued the interest rate under the PBGC rates would be the lower rate while in other years it would be the higher rate, the rate that must be used is the one that results in the greater plan benefit.

(5) *Exceptions.* This paragraph (d) (other than the reference to section 411(d)(6) requirements) does not apply to the amount of a distribution under a nondecreasing annuity payable for a period not less than the life of the participant or, in the case of a QPSA, the life of the surviving spouse. A nondecreasing annuity includes a QJSA, QPSA and an annuity that decreases merely because of the cessation or reduction of Social Security supplements or qualified disability payments (as defined in section 411(a)(9)).

(6) *Defined contribution plans.* Because the accrued benefit in a defined contribution plan equals the account balance, such plans are not subject to the interest rate requirements of this paragraph (d), even though they are subject to section 401(a)(11).

(e) *Special rules for annuity contracts*—(1) *General rule.* Any annuity contract purchased by a plan subject to section 401(a)(11) and distributed to or owned by a participant must provide that benefits under the contract are provided in accordance with the applicable consent, present value, and other requirements of sections 401(a)(11) and 417 applicable to the plan.

(f) *Effective dates*—(1) *Annuity contracts.* (i) Paragraph (e) of this section does not apply to contracts distributed to or owned by a participant prior to September 17, 1985, unless additional contributions are made under the plan by the employer with respect to such contracts.

(ii) In the case of a contract owned by the employer or distributed to or owned by a participant prior to the first plan year beginning after December 31, 1988, paragraph (e) of this section shall be satisfied if the annuity contracts described therein satisfy the requirements in §§ 1.401(a)–11T and 1.417(e)–1T. The preceding sentence shall not apply if additional contributions are made under the plan by the employer with respect to such contracts on or after the beginning of the first plan year beginning after December 31, 1988.

(2) *Interest rates.* (i) A plan that uses the PBGC immediate interest rate as required by § 1.417(e)–1T(e) for

distributions commencing in plan years beginning before January 1, 1987, shall be deemed to satisfy paragraph (d) of this section for such years.

(ii) For a special exception to the requirements of section 411(d)(6) for certain plan amendments that incorporate applicable interest rates, see section 1139(d)(2) of the Tax Reform Act of 1986.

(3) *Other effective dates and transitional rules.* (i) Except as otherwise provided, a plan will be treated as satisfying sections 401(a)(11) and 417 for plan years beginning before the first plan year that the requirements of section 410(b) as amended by TRA 86 apply to such plan, if the plan satisfied the requirements in §§ 1.401(a)–11T and 1.417(e)–1T.

(ii) See § 1.401(a)–20 for other effective dates and transitional rules that apply to plans subject to sections 401(a)(11) and 417.

OMB Control Numbers Under the Paperwork Reduction Act

PART 602—[AMENDED]

Par. 13. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 14. Section 602.101(c) is amended by inserting the appropriate places in the table "§ 1.401(a)–20 * * * 1545–0928" and § 1.402(f)–1 * * * 1545–0928.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: May 12, 1988.

O. Donaldson Chapoton,

Assistant Secretary of Tax Policy.

[FR Doc. 88–18886 Filed 8–19–88; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 88–09]

Special Local Regulations; San Diego, CA 1988 America's Cup Challenge Competition

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the 1988 America's Cup Challenge Competition which will be held off the Coast of San Diego, California. The Competition is a best two-out-of-three racing event between the sailing vessels "Stars and Stripes" and "New Zealand." The races are scheduled for September 7, 9 and 11, 1988. September 13 and 15 are alternate days in the event a race is cancelled. These regulations are needed to provide for the safety of life on navigable waters prior to, during and after each racing event.

EFFECTIVE DATE: These regulations will be effective on the 7 and 9 of September, 1988, unless conditions require postponement of a race. These regulations may be effective on 11, 13 and 15 September depending on the outcome of the first two races and on the need for postponement.

FOR FURTHER INFORMATION CONTACT: LT K. S. Gregory, Eleventh Coast Guard District (bb), 400 Oceangate, Long Beach, California 90822–5399, Telephone: (213) 499–5318.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The race dates were not finalized until August 5, 1988, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LT T. S. Orzech, Project Officer, Marine Safety Office San Diego, LT K. S. Gregory, Eleventh Coast Guard District, Boating Safety Officer, and LT G. R. Wheatley, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulations

The 1988 America's Cup Challenge Competition will attract large numbers of spectator craft. On race days the San Diego Bay Entrance Channel at Ballast Point is expected to be a "choke-point" for vessels from the bay proceeding to and returning from the race area. In addition there will be a need to control spectator vessels in the area of the race course and around the Start/Finish line. These regulations are required to minimize navigational dangers, and for the safety of participants, official craft and spectators.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–11–88–05 is added to read as follows:

§ 100.35–11–88–05 San Diego Bay.

(a)(1) *Regulated area.* These regulations pertain to the following area within San Diego Bay: A line drawn from the north end of Shelter Island to North Island through buoys 18 and 19 then southward to the Bay Entrance.

This area is bounded by the following coordinates:

32–40–01.0N 117–13–20.0W to
32–39–54.0N 117–14–30.0W along the shore to
32–43–10.7N 117–13–10.0W to
32–42–39.2N 117–12–55.6W along the shore back to
32–40–01.0N 117–13–20.0W.

(2) *Special Local Regulations.* (i) A Patrol Commander shall be designated by the Commander, Eleventh Coast Guard District. The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area and may terminate the event at any time it is deemed necessary for the protection of life and property. The Patrol Commander for the Bay area may be reached on VHF/FM Channel 22 (157.1 MHZ) by calling "Captain of the Port".

(ii) All vessels not registered with the race sponsor as participants or official patrol vessels are considered spectator craft. Official patrol vessel are all Coast Guard, Coast Guard Auxiliary, and state and local law enforcement vessels assigned or approved by the Patrol Commander.

(iii) On the days these regulations are in effect, the following requirements will be enforced within the regulated area between the hours of 8:30 a.m. and 11:30 a.m. and in the late afternoon for a period of time to be announced by Broadcast Notice to Mariners:

(A) No spectator craft drawing more than 10 feet or under tow may enter the area.

(B) Spectator craft may only enter the area if operating under power. Auxiliary sail vessels must not be under sail.

(C) During the morning period, spectator craft may only transit the area in a southerly direction, proceeding out to sea.

(D) During the afternoon period, spectator craft may only transit the area in a northerly direction, proceeding into port.

(E) Spectator craft may not exceed 15 knots while transmitting the area and must not exceed 10 knots while passing the Navy Submarine Base. Slower traffic should stay to the right of the channel so as not to impede traffic flow.

(F) Spectator craft shall not loiter in the area or impede the through transit of the participants or official patrol vessels.

(G) When hailed and/or signalled by an official patrol vessel, spectator craft shall immediately comply with all directions given.

(b) *Race Area.*—(1) *Start/Finish Regulated Area.* The Start/Finish line is a 1500 foot line perpendicular to the wind direction at the start of the race. This line will be oriented around the position: 32-42.4N, 117–18.5W. The regulated area is comprised of a 13 linear mile area marked by inflatable pyramid-shaped buoys anchored at ½ mile intervals. Coast Guard and Coast Guard Auxiliary vessels will be stationed between the buoys. The area will extend 1½ miles to leeward of the Start/Finish line for four miles (i.e. approx. 2 miles on either side of the center point of the Start/Finish line). At each windward end of this area, radials will extend out for 3 miles at an angle of approximately 55 degrees to the right and 55 degrees to the left of a line directly into the wind.

(2) *Course Regulated Area.* Races 1 and 3 will be a course 20nm, in length from the Start/Finish line to windward and return. Race 2 will be a 39nm equilateral triangle with the first 13nm leg directly into the wind from the Start/Finish line and the second and third legs a starboard and port reach respectively. The regulated area will be the water areas on and around the course being transitted by the competitors. In addition, the "windward" mark, for the first and third races, and the "windward" and "reach" marks, for the second race, will have ½ mile safety areas outside the course enforced by the U.S. Coast Guard.

(3) *Special Local Regulations.* (i) Spectators shall keep clear of the Regulated Areas.

(ii) Spectators shall remain at least 100 yards outside the line of patrol vessels marking the Start/Finish Regulated Area.

(iii) There will be a U.S. Coast Guard vessel and a small fleet of race sanctioned escort vessels following each contestant during these races. Each escort vessel will be identified by a special "Americas Cup" flag flying from its mast and will always remain to leeward and behind the competitors, and the competitors "chase" boats. Spectator or other craft not involved in this event, must remain behind and to leeward of this "escort" fleet.

(iv) For the safety of the competitors, and for the fairness of this competition, it is essential that spectator, or other vessels not involved in this event, remain clear of the participant's forward movement, and especially not create a wake on the course.

(v) All persons and/or vessels not registered with the sponsor as participants or "Official Patrol Vessels" are considered spectators. "Official Patrol Vessels" consist of Coast Guard, Coast Guard Auxiliary, State, or local law enforcement vessels assigned or approved by the Patrol Commander.

(A) When hailed and/or signaled by an official patrol vessel a spectator shall immediately comply with all directions given. Failure to do so may result in a citation for failure to comply.

(B) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the District Commander, Eleventh Coast Guard District. He may terminate the event at any time he deems it necessary for the protection of life and property. In the race area he may be reached on VHF Channel 22 (157.1 MHZ) when required, by the call sign "PATROL COMMANDER". In emergencies, he may be contacted on VHF Channel 6 (156.3 MHZ).

(c) *Effective dates.* These regulations will be effective on September 7 and 9, 1988 unless wheather or other conditions require postponement of the races. These regulations may be effective on September 11, 13, and 15, 1988 depending on the outcome of the first two races and on the need for postponement due to weather or other conditions.

Dated: August 12, 1988.

Terry Lucas,

Captain, United States Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 88–18987 Filed 8–19–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD7–88–10]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Lauderdale-by-the-Sea, the Coast Guard is changing the regulations governing the Commercial Boulevard (SR 870) drawbridge at Lauderdale-by-the-Sea, Florida, by extending the hours of the existing regulation. This change is being made because of complaints about highway traffic delays. This action will accommodate the current needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 21, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich, telephone (305) 536–4103.

SUPPLEMENTARY INFORMATION: On May 19, 1988, the Coast Guard published proposed rules (53 FR 17961) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated June 2, 1988. In each notice, interested persons were given until July 5, 1988, to submit comments.

Drafting Information

The drafters of these regulations are Mr. Brodie Rich, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Comments

No comments were received. The final rule is unchanged from the proposed rule published on May 19, 1988.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.261(ee) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo

* * * * *

(ee) *Commercial Boulevard bridge, mile 1059.0 at Lauderdale-by-the-Sea.* The draws shall open on signal; except that, from November 1 through May 15 from 8 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: August 8, 1988.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 88-18984 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD1 88-010]

Safety Zone; Rhode Island Sound, Narragansett Bay, Providence River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard has established a permanent Safety Zone in Rhode Island Sound, Narragansett Bay, and the Providence River. This permanent Safety Zone will only be in effect while Liquefied Petroleum Gas (LPG) vessels are anchored, transitting, transferring, or moored in Rhode Island Sound, Narragansett Bay, or the Providence River. This action is necessary to protect the Public from potential hazards associated with the transport and transfer of Liquefied Petroleum Gas. The intended effect of this regulation is to protect the port and the resources therein from harm resulting from destruction or loss of an LPG vessel. Entry into this zone is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

EFFECTIVE DATE: September 21, 1988.

FOR FURTHER INFORMATION CONTACT: LT. J.A. Gabrielson, USCG, C/O Capital Of The Port, U.S. Coast Guard Marine Safety Office, John O. Pastore Fed. Bldg., Providence, R.I. 02903-1790, telephone (401) 528-5335.

SUPPLEMENTARY INFORMATION: On May 12, 1988 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (Volume 53 FR (16883). Interested persons were requested to submit comments and 2 comments were received.

Drafting Information

The drafters of this regulation are Lieutenant J.A. Gabrielson, project officer for the Captain of the Port, and Commander R.A. Brunell, project attorney, for the First Coast Guard District Legal Office.

Discussion of Comments

At a Coast Guard sponsored Industry Day on May 24, 1988, a verbal comment was received from the Northeast Pilots Association regarding anchorage areas for the LPG vessels. It was stated that a safety zone at the proposed western anchorage would impede vessel traffic transitting the area. After evaluating these anchorage areas, the Captain of the Port concurred with the comment and decided to eliminate the western anchorage (Latitude 41-25N., Longitude 71-25W), and maintain the eastern anchorage, near Brenton Reef Tower (Latitude 41-25N., Longitude 71-23W). Another comment from a representative of the Woods Hole Oceanographic Institute pointed out that not all mariners are familiar with radio frequencies and may not know which channel is used for Marine Safety Information Broadcasts. The Captain of the Port has decided to add the frequency and channel to the Marine Safety Information Broadcast as follows: Channel 22 (157.1 MHz).

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The requirements for this permanent safety zone are presently being implemented utilizing emergency rules which effect larger commercial vessel traffic.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Section 165.121 is added to read as follows:

§ 165.121 Safety Zone: Rhode Island Sound, Narragansett Bay, Providence River.

(a) *Location.* The following areas are established as safety zones:

(1) For Liquefied Petroleum Gas (LPG) vessels while at anchor in the waters of Rhode Island Sound; in position Latitude 41-25N., Longitude 71-23W., a Safety Zone with a radius of one-half mile around the LPG vessel.

(2) For Liquefied Petroleum Gas (LPG) vessels while transitting Narragansett Bay and the Providence River; a moving Safety Zone from a distance of two (2) miles ahead to one (1) mile astern to the limits of the navigable channel around the LPG vessel.

(3) For Liquefied Petroleum Gas (LPG) vessels while moored at the LPG facility, Port of Providence; a Safety Zone within 50 feet around the vessel. No vessel shall moor within 400 feet from the LPG vessel. All vessels transitting the area are to proceed with caution to minimize the effects of wake around the LPG vessel.

(4) For Liquefied Petroleum Gas (LPG) vessels while moored with manifolds connected at the LPG Facility, Port of Providence; a Safety Zone within a 100 foot radius around the shoreside manifold while connected. This is in addition to the requirements for LPG vessels while moored at the LPG Facility, Port of Providence.

(b) The Captain of the Port Providence will notify the maritime community of periods during which this safety zone will be in effect by providing advance notice of scheduled arrivals and departures of LPG vessels via Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply.

Dated: July 27, 1988.

E.J. Williams III,

Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.

[FR Doc. 88-18983 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP MEMPHIS, TN Regulation 88-14]

Safety Zone Regulations; Lower Mississippi River Mile 882.7 to 507

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Mississippi River from mile 882.7 to mile 507. This safety zone supersedes Captain of the Port, Memphis, TN Regulation 8-10. The safety zone is needed to protect commercial vessels from safety hazards associated with record low water conditions including extensive shoaling and numerous low water areas in the navigational channel. This low water has made normal navigation on this section of the Mississippi River extremely hazardous. During the safety zone, the Captain of the Port in Memphis, Tennessee, has limited tow sizes to 1,000 feet in length and 105 feet in width, or 800 feet in length and 165 feet in width. Barges will be limited to 8.5 foot drafts except barges at 9.0 feet which were loaded prior to 23 June 1988. Barges at 9.0 feet, draft loaded prior to 23 June 1988, may enter the safety zone, but operators must contact the Captain of the Port prior to entry into the safety zone for transit instructions. Also, the Captain of the Port may be required to close sections of the Mississippi River in order to allow emergency dredging operations by the U.S. Army Corps of Engineers. Consistent with accomplishing these dredging operations in changing river conditions, information regarding river closures and other transit requirements in this safety zone will be specified in the daily Coast Guard Local Notice to Mariners broadcasts. Variations to these tow sizes and draft limitations will only be authorized by the Captain of the Port. Entry of vessels and tows into the zone not meeting the specific restrictions of the safety zone are prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 02 July 1988 at 8:00 a.m. and will terminate at 12:00 noon 30 October 1988, unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lt. A. Buancore, Coast Guard Marine Safety Office, Memphis, TN (901) 521-3941.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafter of this regulation is Lieutenant A. Buancore, project officer for the Captain of the Port.

Discussion of the Regulation

The hazard requiring this regulation is extreme low water conditions on the Lower Mississippi River. This low water has resulted in numerous shoals and a restricted navigational channel. In order to facilitate the movement of commercial vessel traffic and to prevent potentially hazardous groundings of vessels and tows in this waterway, minimize degradation of the dredged navigation channel, and the destruction of aids to navigational buoys on the Lower Mississippi River, the Captain of the Port is required to impose tow and draft size limitations of tows transiting the Lower Mississippi River. Tows sizes are limited to 1,000 feet in length and 105 feet in width, or 800 feet in length and 165 feet in width. Barges in all tows will be limited to 8.5 foot drafts except barges at 9.0 feet draft which were loaded prior to 23 June 1988. Barges at 9.0 feet draft loaded prior to 23 June 1988 may enter the safety zone, but operators must contact the Captain of the Port, prior to entry into the safety zone, for instructions. Also, emergency dredging operations by the U.S. Army Corps of Engineers to maintain the navigational channel may require additional channel closures and restrictions of vessel navigation on the Lower Mississippi River. The most effective and expedient means to disseminate the information regarding short term river closures and other transit restrictions involving dredging operations is by broadcasts in the daily Coast Guard Local Notice to Mariners. Variations to these tow sizes and draft limitations and transit restrictions can only be authorized by the Captain of the Port in Memphis, TN.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T242 is added to read as follows:

§ 165.T242 Safety Zone: Mississippi River From Mile 882.7 to Mile 507.

(a) *Location:* The following area is a safety zone: From mile 882.7 to mile 507 on the Mississippi River.

(b) *Regulation:* (1) Tows sizes are limited to 1,000 feet in length and 105 feet in width, or 800 feet in length and 165 feet in width. Barges in all tows will be limited to 8.5 foot drafts. Barges will be limited to 8.5 drafts except barges at 9.0 feet draft which were loaded prior to 23 June 1988. Barges at 9.0 feet draft loaded prior to 23 June 1988 may enter the safety zone, but operators must contact the Captain of the Port, prior to entry into the safety zone, for transit instructions. Tows may be restricted or prohibited from transiting sections of the river when emergency dredging operations are being conducted by the U.S. Army Corps of Engineers.

(2) In accordance with the general regulations in Section 165.23 of this Part, entry into this zone is prohibited unless authorized by the Captain of the Port, Memphis, TN.

(3) This safety zone is in effect from 8:00 a.m. 02 July 1988 until 12:00 noon 30 October 1988.

(c) *Effective date:* This regulation becomes effective on 02 July 1988 at 8:00 a.m. It terminates on 30 October 1988 at 12:00 noon.

Dated: June 30, 1988.

M.J. Donohoe,

Captain of the Port, Memphis, Tennessee.

[FR Doc. 88-18985 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP MEMPHIS, TN Regulation 88-15]

Safety Zone Regulations; Lower Mississippi River, Memphis Harbor, Wolf River Chute

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in Memphis Harbor, Wolf River Chute in the Port of Memphis, TN. This safety zone supersedes Captain of the Port, Memphis, TN Regulation 88-08. The

safety zone is needed to protect commercial vessels from a safety hazard associated with low water conditions in Wolf River Chute. During the safety zone, commercial tows will be limited to one barge tows with a draft of no more six feet up to mile one of Wolf River Chute and a draft of no more than five feet above mile one. Entry into this zone by tows not meeting the above restrictions is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 15 July 1988 at 8:00 A.M. and will terminate at 12:00 noon 15 October 1988, or if terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lt. A. Buancore, Coast Guard Marine Safety Office, Memphis, TN (901) 521-3941.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for makintg it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafter of this regulation is Lieutenant A. Buancore, project officer for the Captain of the Port.

Discussion of the Regulation

The hazards requiring this regulation is the present low water in Memphis Harbor, Wolf River Chute in Memphis, TN. The Coast Guard has deemed it necessary for the enforcement of the draft and tow size restrictions to prevent groundings and to limit damage to the channel.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5

2. A new § 165.T243 is added to read as follows:

§ 165.T243 Safety Zone: Mississippi River, Memphis Harbor, Wolf River Chute

(a) *Location:* The following area is a safety zone: Memphis Harbor, Wolf River Chute in Memphis, TN.

(b) *Regulation:* (1) Commercial tows will be limited to one barge tows with a draft of no more than six feet up to mile one of Wolf River Chute and a draft of no more than five feet above mile one.

(2) In accordance with the general regulations in Section 165.23 of this Part, entry into this zone is prohibited unless authorized by the Captain of the Port Memphis, TN.

(3) This safety zone is in effect from 8:00 p.m. 15 July 1988 until 12:00 noon 15 October 1988.

(c) *Effective date:* This regulation becomes effective on 15 July 1988 at 8:00 a.m. It terminates on 15 October 1988 at 12:00 noon.

Dated: 15 July 1988.

M.J. Donohoe,

Captain of the Port, Memphis, Tennessee.

[FR Doc. 88-18986 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3433-3]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Kansas Department of Health and Environment (KDHE) submitted revised regulations to incorporate by reference the "Guidelines on Air Quality Models (Revised)" (1986).

EPA is taking final action to approve this revision to establish consistency with EPA's requirement on air quality models.

Also, KDHE has submitted revised regulations to add two new definitions, to make minor changes in other definitions, and to reletter some definitions. These changes in the definitions are acceptable and do not conflict with EPA's regulations. The modifications also do not delete requirements already contained in the approved SIP.

DATES: This action will be effective October 21, 1988, unless notice is received by September 21, 1988, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the submittal are available for public inspection at:

U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Bureau of Air Quality and Radiation Control, Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620

FOR FURTHER INFORMATION CONTACT: Carol D. LeValley at (913) 236-2893 (FTS 757-2893).

SUPPLEMENTARY INFORMATION: On January 6, 1988, KDHE submitted regulations revising K.A.R. 28-19-17(f), *Air Quality Models* (a) and (b). The state has revised this regulation to satisfy EPA's modeling requirements by incorporating by reference EPA's "Guidelines on Air Quality Models (Revised)" (1986).

Also, the state has adopted three new definitions. EPA is deferring action on the definition at K.A.R. 28-19-7(g), *Emission limitation and standard*, pertaining to the state's stack height rules; EPA is preparing a separate rulemaking on the state's stack height provisions. The other two definitions that are being added are K.A.R. 28-19-7(q), *Person*, and K.A.R. 28-19-7(w), *Waste*. Minor changes in definitions K.A.R. 28-19-7 (a), (b), (c), (d), (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (s), (t), (u), and (v) are being made to make the definitions clearer. The relettering is done because of the addition of the new definitions.

The state's definitions are consistent with EPA's definitions. Also.The state has adopted the changes in the air quality models and the definitions regulations and has met the public hearing and notification requirements (see 40 CFR 51.102).

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective October 21, 1988, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that

this action will be effective October 21, 1988.

Action

EPA is approving amended rules 28–19–17(f) and 28–19–7 (a) through (w), but is deferring action on 28–19–7(g).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit October 21, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the state of Kansas was approved by the Director of the Federal Register on July 1, 1982.

Date: August 15, 1988.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

40 CFR Part 52 is amended as follows:

Subpart R—Kansas

1. The authority citation for Part 52 continues to read as follows:

Authority: U.S.C. 7401–7642.

2. Section 52.870 is revised by adding paragraph (C)(21) to read as follows:

§ 52.870 Identification of Plan.

* * * * *

(c) * * *

(21) Revised Kansas regulations applicable to air quality models and definitions were submitted by the Kansas Department of Health and Environment on January 6, 1988.

(i) Incorporation by reference

(A) Kansas Administrative Regulations (K.A.R.) 28–19–17(f) and 28–19–7 (a) through (f) and (h) through (w) which because effective December 16, 1987. EPA is deferring action on 28–19–7(g), *Emission Limitation and Standard.*

[FR Doc. 88–18948 Filed 8–19–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL–3419–8]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: USEPA is today approving a revision to the Michigan State Implementation Plan (SIP) for volatile organic compounds (VOC) as it applies to Consent Order No. 8–1982 and its alteration for the General Motors Corporation (GMC) Buick Motor Division located in Flint, Michigan.

USEPA proposed approval of Consent Order No. 8–1982, as altered, on April 22, 1985 (50 FR 15761). No comments were received during the 30-day public comment period. The alteration of Consent Order No. 8–1982 submitted by the State of Michigan on September 6, 1984, accelerates the final compliance dates contained in the Michigan SIP with respect to VOC limits for the prime and prime-surfacer coating operations. This alteration also extends by one year an interim compliance date for topcoat operations, but reduces the interim emission limit during that period and final compliance remains December 31, 1987. USEPA believes this revision will not jeopardize attainment of the Ozone National Ambient Air Quality Standards (NAAQS).

DATE: This action is effective September 21, 1988.

ADDRESSES: Copies of the State submittal and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 W. Allegan, Lansing, Michigan 48909

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Michigan Regulatory Specialist, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On July 6, 1983 (48 FR 31022), USEPA approved a Stipulation for Entry of Consent and Final Order, SIP No. 8–1982, submitted September 2, 1982, between GMC and the Michigan Air Pollution Control Commission (MAPCC) as a revision to the Michigan SIP. That rulemaking approved the extended compliance date for surface coating operations until December 31, 1987. The approved Consent Order concerned VOC emissions from the surface coating lines at Buick Motor Division Plant in Flint, Michigan.

The Buick Motor Division Plant assembles and paints automobiles and is located in Genesee County, which is classified as a primary nonattainment area for Ozone. The coating operations affected by Consent Order No. 8–1982 are the prime operations, the prime-surfacer operations and the small parts topcoat operations. All these operations are classified as the surface coating of automobiles and light-duty trucks, and are subject to the VOC control requirements of Michigan Rules 336.1603 and 336.1610.

On September 6, 1984, the State of Michigan submitted a revision in the form of an Alteration of Stipulation for Entry of Consent Order and Final Order, SIP No. 8–1982, between GMC and MAPCC concerning VOC emissions form the surface coating lines at the Buick Motor Division's Plant in Flint, Michigan.

On April 22, 1985 (50 FR 15761), USEPA proposed approval of the GMC Buick Motor Division Consent Order No. 8–1982, as altered. The Original Consent Order No. 8–1982 (approved by USEPA July 6, 1983), extended the interim and final compliance dates for meeting the VOC limits in Michigan Rule 336.1610 from those set forth in the regulation for the Buick Motor Division Plant. Consent Order No. 8–1982, as amended, provides for the following schedule and emission limitations:

Prime Operations

Until December 31, 1985, VOC emission shall not exceed 36.8 pounds per gallon of applied coating solids. After December 31, 1985, VOC emissions shall not exceed 1.43 pounds per gallon of applied coating solids.

Prime-Surfacer Operations

After December 31, 1984, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids.

Topcoat Operations

Until December 31, 1985, VOC emissions shall not exceed 48.1 pounds per gallon of applied coating solids. After December 31, 1985, and until December 31, 1987, VOC emissions shall not exceed 27.1 pounds per gallon of applied coating solids.

Consent Order No. 8–1982, as amended, accelerates final compliance with VOC limits for the prime coating operations from December 31, 1987, to December 31, 1985. This alteration also

requires primer surfacer operations to be in compliance with final VOC limits after December 31, 1984, instead of December 31, 1987. Compliance with the topcoat and trim limit of 33.1 pounds per gallon of applied coating solids as required in the original order, would be delayed by 1 year from December 31, 1984, to December 31, 1985, however, the interim limit for that period is reduced to 27.1 pounds per gallon of applied coating solids. Even though a one year extension is granted, the source must meet the interim compliance limit. Final compliance for the topcoat and repair operations remains at December 31, 1987.

USEPA reviewed Consent Order No. 8–1982, as amended, in conjunction with USEPA's October 20, 1981, Federal Register policy statement (46 FR 51386) entitled "Approval of Revisions to Compliance Schedules for Control of Volatile Organic Compounds from Automobile Assembly Plant Paint Shop Operations." That notice explained that extensions of the compliance dates for auto coating sources must be consistant with attainment as expeditiously as practicable and reasonable further progress (RFP) in the interim. On August 7, 1986, USEPA issued a memorandum from Assistant Administrator J. Craig Potter, reiterating these prerequisites to approval of compliance date extensions.

USEPA's proposed rulemaking to approve Consent Order No. 8–1982, as altered, on April 22, 1985 (50 FR 15761), provided a 30-day comment period, during which no public comments were received. USEPA's memorandum of (August 7, 1986) prompted the agency to re-examine the GMC Buick revision. Upon such re-examination, USEPA finds that Consent Order No. 8–1982, as altered, is still approvable.

It should be noted first that approval of this revision does not change the final compliance date of December 31, 1987. USEPA previously approved that final compliance date as the most expeditious date practicable for this source. Beyond that, the revision would not significantly interfere with RFP in the Genesee County ozone nonattainment area before December 31, 1987. The State believes that, based on the Buick Motor Plant's 1983 production, the effect of the alterations of the Consent Order would be to allow 1800 tons of VOC emissions in 1985.

The original Consent Order which was federally approved on July 6, 1983 (48 FR 31022) allowed 1485 tons of VOC emissions in 1985. However, for 1986 and 1987 the alteration allows VOC emissions of 647 tons each year, which is 810 tons less than the VOC emissions allowed in the existing Order.

Thus, while the revision would increase emissions in 1985 over what would otherwise have been required, it would produce a substantially greater reduction in emissions below what would otherwise have been required in 1986 and 1987. USEPA believes that this adjustment would result in greater overall progress in the interim years before final compliance at the end of 1987.

USEPA is today approving the alteration to Consent Order No. 8–1982 for the GMC, Buick Motor Divison Plant as submitted by the State of Michigan as a SIP revision. USEPA believes the extension of the interim compliance dates for topcoat and repair operations are as expeditious as practicable, and will not interfere with the attainment and maintenance of the Ozone National Ambient Air Quality standards in Genesee County. USEPA's approval of this alteration does not change the final compliance date of December 31, 1987.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 21, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Intergovernmental Relations.

Note. Incorporation by reference of the State Implementation Plan for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 19, 1988.

Lee M. Thomas,

Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

PART 52—APPROVAL PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 and 7642.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(78) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(78) On September 6, 1984, the State of Michigan submitted a revision to the Michigan State Implementation Plan for the General Motors Corporation Buick Motor Division in the form of an Alteration of Stipulation for Entry of Consent Order and Final Order, No. 8–1982. The original Consent Order No. 8–1982 was federally approved on July 6, 1983. This alteration revises Consent Order No. 8–1982, in that it accelerates the final compliance dates for prime and prime-surfacer operations and extends an interim compliance date for topcoat operations.

(i) Incorporation by reference.

(A) State of Michigan, Air Pollution Control Commission, Alteration of Stipulation for Entry Consent Order and Final Order SIP No. 8–1983, which was approved by the Air Pollution Control Commission on April 2, 1984.

(B) Letter of September 6, 1984, from the State of Michigan, Department of Natural Resources, to EPA.

* * * * *

[FR Doc. 88–16637 Filed 8–19–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 62

[FRL 3433–2; NC–034]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Carolina; Revision to 111(d) Plan for Total Reduced Sulfur From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 14, 1987, the North Carolina Division of Environmental Management submitted a regulatory amendment to be incorporated into their federally approved 111(d) plan for total reduced sulfur (TRS). The changes were proposed for approval on December 7, 1987 (52 FR 46380). The comment period ended January 6, 1988, and no comments were received. This notice finalizes the approval of the change, making it part of the federally approved plan. The regulation is being amended to raise one of its standards to the level allowed by Federal New Source Performance Standards.

DATES: This rule will become effective on September 21, 1988.

ADDRESSES: Copies of the State's submittal are available for review during normal business hours at the following locations:

Air Quality Section, Division of Environmental Management, North

Carolina Department of Natural Resources and Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

Air Programs Branch, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Gregg Worley of the EPA Region IV Air Programs Branch, at the above address and the following phone: (404) 347–2864 or (FTS) 257–2864.

SUPPLEMENTARY INFORMATION: On April 14, 1987, the State of North Carolina submitted a revision to their 111(d) plan for total reduced sulfur (TRS) from Kraft Pulp Mills. A 111(d) plan is a plan under section 111(d) of the Clean Air Act which establishes emission standards for designated pollutants from facilities constructed before the applicability date of federal New Source Performance Standards (NSPS) under 40 CFR Part 60 that emit pollutants regulated by NSPS. The revision was adopted by the Environmental Management Commission on April 9, 1987, after a public hearing held on January 20, 1987. The change to regulation 2D.0528, TRS from Kraft Pulp Mills, allows an emission increase of TRS from: 0.0168 pounds per ton of black liquor solids (dry weight) (lbs TRS/ton BLS) from any smelt dissolving tank to 0.032 lbs TRS/ton BLS.

This change brings North Carolina's rule into agreement with the latest revision of 40 CFR Part 60, Subpart BB, promulgated on May 20, 1986 (51 FR 18538). That revision of Subpart BB (Standards of Performance for New Stationary Sources: Kraft Pulp Mills) promulgated several revisions to the standards. One of the revisions changed the existing TRS standard for smelt dissolving tanks from 0.0084 grams of TRS (expressed as H_2S) per kilogram of black liquor solids (g TRS as H_2S/kg BLS) to 0.016 g TRS as H_2S/kg BLS. This revision in English units would be from 0.0168 lbs TRS as H_2S/ton BLS to 0.032 lbs TRS as H_2S/ton BLS. The change to 2D.0528 incorporates the new standard into North Carolina's rule, allowing the same relaxation for existing sources as the revision to 40 CFR Part 60 allows for new sources. It must be noted, however, that a source owner who modifies any affected facility in order to take advantage of the new TRS limit may be subject to 40 CFR Part 60 (New Source Performance Standards), including all parts of those regulations, not just the emission limit.

Final Action

EPA is approving the above regulation change that was submitted to EPA on April 14, 1987.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed with the United States Court of Appeals for the appropriate circuit by October 21, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Air pollution control, Paper and paper products industry, Intergovernmental relations.

Dated: August 15, 1988.

Lee M. Thomas,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart II—North Carolina

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. Section 62.8350 is amended by adding paragraph (b)(5) to read as follows:

§ 62.8350 Identification of plan.

* * * * *

(b) * * *

(5) A change to regulation 15 NCAC 2D.0528, Total Reduced Sulfur from Kraft Pulp Mills, was submitted to EPA April 14, 1987, following adoption by the North Carolina Environmental Management Commission on April 9, 1987.

[FR Doc. 88–18949 Filed 8–19–88; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–56

Salary Offset for Indebtedness of General Services Administration Employees to the United States

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) recently proposed regulations implementing the salary offset provisions of the Debt Collection Act of 1982. The proposed regulations establish rules and procedures for the General Services Administration to collect, compromise or terminate collection action on claims owed to the U.S. from activities arising under GSA jurisdiction. In particular, procedures were set forth by which GSA can collect debts owed by Federal employees through the use of administrative offset from the employee's disposable pay.

GSA received one comment on the proposed regulations. The writer proposed that certain time limits on employee responses be extended, and that the procedural requirement of requesting reconsideration of a debt prior to requesting a hearing be eliminated. These comments have been reviewed, and GSA is now adopting a modified rule which responds to the suggestions received.

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Jr., Senior Assistant General Counsel, Office of General Counsel, General Services Administration, 18th and F Streets, NW., Washington, DC 20405, 202–566–1460.

SUPPLEMENTARY INFORMATION: On October 2, 1986 (51 FR 35245), GSA published for comment in the **Federal Register** a proposed rule based on guidelines and standards published by the Office of Personnel Management (49 FR 27470, July 3, 1984) implementing amendments made by the Debt Collection Act of 1982, Pub. L. 97–365, to 5 U.S.C. 5514. The amendments expanded the authority of Federal agencies to offset debts owed to the United States from the salaries of its employees. The intention of Congress in passing these amendments was to minimize the cost to the Government of recovery of the debts. In addition, the amendments imposed more stringent procedural requirements to protect the interests of Federal employees who have been determined to be indebted to the U.S.

GSA received one response to the proposed rule. The commenter made three points:

1. While 5 U.S.C. 5514(a)(2) requires that an individual request a hearing on the debt or repayment schedule on or before the fifteenth day following the receipt of the agency's notice of intent to collect the debt, it does not require furnishing all the facts, evidence and names of witnesses with the request, as required in § 105–56.006(b) of the proposed regulations;

2. In a similar fashion, § 105–56.005(c) provides for a seven day limit for an

initial request for reconsideration, which may be insufficient time to obtain additional facts in support of the reconsideration request;

3. Finally, the commenter noted that § 105–56.006(a) of the proposed regulations required that a request for reconsideration be made prior to any request for a hearing, a procedure not strictly required by 5 U.S.C. 5514(a)(2).

The commenter suggested that 20 days would be appropriate time for an employee to gather facts, evidence, or witnesses in support of his petition for hearing or request for reconsideration under items 1 and 2, above.

After review, GSA has concluded that the additional time requested for an employee to obtain facts, evidence, or witnesses (5 days for item 1, 13 days for item 2) would have little or no real effect on the speedy processing and collection of the debt, and insures that employees will have a fair opportunity to present their case. GSA has therefore determined to adopt the suggestion. The regulations have been amended at § 105–56.005 and § 105–56.006 to provide the employee additional time to prepare his response.

Likewise, GSA has concluded that a request for reconsideration should be a permissive, and not a mandatory, prerequisite to a pre-offset hearing. The regulations have been amended at § 105–56.006 to eliminate the requirement of a reconsideration request prior to a request for a hearing.

Paperwork Reduction Act of 1980

Under section 3518 of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information collection provisions contained in these regulations are not subject to the Office of Management and Budget review and approval.

Executive Order 12291

These regulations have been reviewed in accordance with E.O. 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

For the reasons set out in the preamble, Title 41 of the Code of Federal Regulations is amended as follows:

Part 105–56 is added to read as follows:

PART 105–56—SALARY OFFSET FOR INDEBTEDNESS OF GENERAL SERVICES ADMINISTRATION EMPLOYEES TO THE UNITED STATES

Sec.

105–56.001 Scope.
105–56.002 Excluded debts or claims.
105–56.003 Definitions.
105–56.004 Pre-offset notice.
105–56.005 Employee response.
105–56.006 Petition for pre-offset hearing.
105–56.007 Pre-offset oral hearing.
105–56.008 Pre-offset "paper hearing."
105–56.009 Written decision.
105–56.010 Deductions.
105–56.011 Non-waiver of rights.
105–56.012 Refunds.
105–56.013 Coordinating offset with another Federal agency.

Authority: 5 U.S.C. 5514; Pub. L. 97–365, 96 Stat. 1754.

§ 105–56.001 Scope.

(a) This part covers both internal and Government-wide collections under 5 U.S.C. 5514. It applies when certain debts to the U.S. are recovered by administrative offset from the disposable pay of an employee of the U.S. Government, except in situations where the employee consents to the recovery.

(b) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 *et seq.*) or in accordance with any other statutory authority for the collection of claims of the U.S. or any Federal agency.

§ 105–56.002 Excluded debts or claims.

This part does not apply to:

(a) Debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (41 U.S.C. 301 *et seq.*), or the tariff laws of the United States.

(b) To any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute, such as travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108. Debt collection procedures under other statutory authorities, however, must be consistent with the provisions of FCCS, defined below..

(c) An employee election of coverage or of a change of coverage under a Federal benefits program which requires periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

§ 105–56.003 Definitions.

The following definitions apply to this part:

"Administrator" means the Administrator of the General Services or the Administrator's designee.

"Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources.

"Disposable pay" means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits; and such other deductions that are required by law to be withheld.

"Employee" means a current employee of the General Services Administration, or other executive agency.

"FCCS" means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR 101.1 *et seq.*

"Pay" means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

"Program official" means a supervisor or management official of the employee's service or staff office.

"Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

"Waiver" means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774 or 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

§ 105–56.004 Pre-Offset notice.

The employee is entitled to written notice from an appropriate program officer in his or her employing activity at least 30 days in advance of initiating a deduction from disposable pay informing him or her of:

(a) The nature, origin and amount of the indebtedness determined by the General Services Administration or another agency to be due;

(b) The intention of the agency to initiate proceedings to collect the debt through deductions from the employee's current disposable pay;

(c) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(d) GSA's policy concerning how interest is charged and penalties and administrative cost assessed, including a statement that such assessments must

be made unless excused under 31 U.S.C. 3717 and the FCCS, 4 CFR 101.1 *et seq.*;

(e) The employee's right to inspect and copy Government records relating to the debt if Government records of the debt are not attached, or if the employee or his or her representative cannot personally inspect the records, the right to receive a copy of such records. Any costs associated therewith shall be borne by the debtor. The debtor shall give reasonable notice in advance to GSA of the date on which he or she intends to inspect and copy the records involved;

(f) A demand for repayment providing for an opportunity, under terms agreeable to GSA, for the employee to establish a schedule for the voluntary repayment of the debt by offset or to enter into written repayment agreement of the debt in lieu of offset;

(g) The employee's right to request a waiver from the General Accounting Office if a waiver of repayment is authorized by law;

(h) The employee's right to pre-offset hearing conducted by a hearing official arranged by the appropriate program official of his or her employing activity if a petition is filed as prescribed by § 105–56.005. Such hearing official will be either an administrative law judge or a hearing official not under the control of the head of the agency and will be designated in accordance with the procedures established in 5 CFR 550.1107;

(i) The method and time period for petitioning for a hearing, including a statement that the timely filing of a petition for hearing will stay the commencement of collection proceedings;

(j) The issuance of a final decision on the hearing, if requested, at the earliest practicable date, but no later than 60 days after the petition is filed unless a delay is requested and granted;

(k) The risk that any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority;

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority.

(l) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made.

(m) The employee's right to a prompt refund if amounts paid or deducted are later waived or found not owed, unless otherwise provided by law;

(n) The specific address to which all correspondence shall be directed regarding the debt.

§ 105–56.005 Employee response.

(a) *Voluntary repayment agreement.* An employee may submit a request to the official who signed the demand letter to enter into a written repayment agreement of the debt in lieu of offset. The request must be made within 7 days of receipt of notice under § 105–56.004. The agreement must be in writing, signed by both the employee and the program official making the demand and a signed copy must be sent to the regional finance division serving the program activity. Acceptance of such an agreement is discretionary with the agency. An employee who enters into such an agreement may nevertheless seek a waiver under paragraph (b) of this section.

(b) *Waiver.* Where a waiver of repayment is authorized by law, the employee may request a waiver from the General Accounting Office.

(c) *Reconsideration.* (1) An employee may seek a reconsideration of the Agency's determination regarding the existence or amount of the debt. The request must be submitted to the official who signed the demand letter within 7 days of receipt of notice under § 105–56.004. Within 20 days of receipt of this notice, the employee shall submit a detailed statement of reasons for reconsideration which must be accompanied by supporting documentation.

(2) An employee may request a reconsideration of the proposed offset schedule. The request must be submitted to the program official who signed the demand letter within 7 days of receipt of notice under § 105–56.004. Within 20 days of receipt of this notice, the employee shall submit an alternative repayment schedule accompanied by a detailed statement supported by documentation evidencing financial hardship resulting from the agency's proposed schedule. Acceptance of the request is discretionary with the agency. The agency must notify the employee in writing of its decision concerning the request to reduce the rate of an involuntary deduction.

§ 105–56.006 Petition for pre-offset hearing.

(a) The employee may petition for a pre-offset hearing by filing a written petition with the program official who signed the demand letter within 15 days of receipt of the written notice. The petition must state why the employee believes the agency's determination concerning the existence or amount of the debt is in error, and set forth objections to the involuntary repayment schedule. The timely filing of a petition will suspend the commencement of collection proceedings.

(b) The employee's petition or statement must be signed by the employee.

(c) Petitions for hearing made after the expiration of the 15 day period may be accepted if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit.

(d) If the employee timely requests a pre-offset hearing or the timeliness is waived, the program official must:

(1) Notify the employee whether the employee may elect an oral hearing or whether he or she may have only a "paper hearing," i.e., a review on the written record (see 4 CFR 102.3(c)). In either case, the program official will arrange for a hearing official; and

(2) The program official will provide the hearing official with a copy of all records on which the determination of the debt and any involuntary repayment schedule are based.

(e) An employee who elects an oral hearing must notify the hearing official and the program official in writing within 5 days of receipt of the notice under paragraph (d)(1) of this section and within 20 days of receipt of the notice under (d)(1) the employee shall fully identify and explain with reasonable specificity all the facts, evidence and witnesses which the employee believes support his or her position.

(f) The hearing official shall notify the program official and the employee of the date, time and location of the hearing.

(g) If the employee later elects to have the hearing based only on the written submissions, notification must be given to the hearing official and the program official at least 3 calendar days before the date of the oral hearing. The hearing official may waive the 3-day requirement for good cause.

(h) Failure of the employee to appear at the oral hearing can result in dismissal of the petition and affirmation of the agency's decision.

§ 105–56.007 Pre-offset oral hearing.

(a) Oral hearings are informal in nature. The agency, represented by a program official or a representative of the Office of General Counsel, and the employee, or his or her representative, shall explain their case in the form of an oral presentation with reference to the documentation submitted. The employee

may testify on his or her own behalf, subject to cross examination. Other witnesses may be called to testify where the hearing official determines the testimony to be relevant and not redundant.

(b) The hearing official shall—

(1) Conduct a fair and impartial hearing; and

(2) Preside over the course of the hearing, maintain decorum, and avoid delay in the disposition of the hearing.

(c) The employee may represent himself or herself or may be represented by another person at the hearing. The employee may not be represented by a person who creates an actual or apparent conflict of interest.

(d) Oral hearings are open to the public. However, the hearing official may close all or any portion of the hearing when doing so is in the best interests of the employee or the public.

(e) Oral hearings may be conducted by conference call at the request of the employee or at the discretion of the hearing official.

§ 105–56.008 Pre-offset "paper hearing."

If a hearing is to be held only upon written submissions, the hearing official shall issue a decision based upon the record and responses submitted by both the agency and the employee.

§ 105–56.009 Written decision.

Within 60 days of filing of the employee's petition for a pre-offset hearing, the hearing official will issue a written decision setting forth: The facts supporting the nature and origin of the debt; the hearing official's analysis, findings and conclusions as to the employee's or agency's grounds, the amount and validity of the debt and the repayment schedule.

§ 105–56.010 Deductions.

(a) *When deductions may begin.* If the employee filed a petition for hearing with the program official before the expiration of the period provided for in § 105–56.006, then deductions will begin after the hearing official has provided the employee with a hearing, and the final written decision is in favor of the agency. It is the responsibility of the employee's program official to issue the pre-offset notice to the employee and to instruct the National Payroll Center to begin offset in accordance with the final written decision.

(b) *Retired or separated employees.* If the employee retires, resigns, or is terminated before collection of the amount of the indebtedness is completed, the remaining indebtedness will be offset from any subsequent payments of any nature. If the debt cannot be satisfied from subsequent payments, then the debt must be collected according to the procedures for administrative offset pursuant to 31 U.S.C. 3716.

(c) *Types of collection.* A debt may be collected in one lump sum or in installments. Collection will be by lump-sum unless the employee is able to demonstrate to the program official who signed the demand letter that he or she is financially unable to pay in one lump-sum. In these cases, collection will be by installment deductions.

(d) *Methods of collection.* If the debt cannot be collected in one lump sum, the debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the program official agree to an alternative repayment schedule. The alternative arrangement must be in writing and signed by both the employee and the program official.

(1) *Installment deductions.* Installment deductions will be made over the shortest period possible. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. The installment payment will be sufficient in size and frequency to pay the debt over the shortest period possible and never to exceed three years. Installment payments of less than $100 per pay period will be accepted only in the most unusual circumstances.

(2) *Sources of deductions.* GSA will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

(e) Interest, penalties and administrative costs on debts under this part will be assessed according to the provisions of 4 CFR 102.13.

§ 105–56.011 Non-waiver of rights.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutory or contractual provisions to the contrary.

§ 105–56.012 Refunds.

GSA will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) GSA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 105–56.013 Coordinating offset with another Federal agency.

(a) *When GSA is owed the debt.* When GSA is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until GSA provides the agency with a written certification that the debtor owes GSA a debt and that GSA has complied with these regulations. This certification shall include the amount and basis of the debt and the due date of the payment.

(b) *When another agency is owed the debt.* GSA may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Any such request must be accompanied by a certification from the requesting agency that the person owes the debt, the amount of the debt and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

Dated: April 13, 1988.

Raymond A. Fontaine,

Comptroller, General Services Administration.

[FR Doc. 88–18911 Filed 8–19–88; 8:45 am]

BILLING CODE 6820–BN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3130, 3150, 3180, and 3200

[AA–620–88–4111–01; Circular No. 2606]

Oil and Gas Leasing, Geothermal Resources Leasing; Clarifying Amendments; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking, correction.

SUMMARY: This document corrects typographical and editorial mistakes made in the final rulemaking on oil and gas leasing and geothermal leasing published in the **Federal Register** on May 16, 1988 (53 FR 17340). Also, Additional corrections may be found in a document published by the Federal Register elsewhere in this issue.

EFFECTIVE DATE: June 15, 1988.

ADDRESS: Inquires or suggestions should be sent to: Director (500), Bureau of Land Management, Room 5647, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lois Mason, (202) 653–2190.

In the corrections listed below, the item numbers correspond to the item numbers in the original final rulemaking. The following corrections are made in the final rulemaking on Oil and Gas Leasing and Geothermal Resources Leasing, published in the **Federal Register** on May 16, 1988 (53 FR 17340):

34. On page 17355, first column, at the end of this item, add the words, " and by removing from where it appears the word 'condition' and replacing it with the word 'conditions' ".

67. On page 17359, first column, in paragraph E. of this time, at line 3 thereof, change "assignor" to "assignee".

72. On page 17361, third column, in § 3154.3, insert the word "have" between "permit" and "been" at line 5 thereof, so that the line reads: "notice of intent or permit have been met."

110. On page 17365, third column, in paragraph B, remove the word "that" from the third line from the end, so that the phase being removed reads: "by a working interest owner obtains".

117. On page 17367, second column, in line 13 of § 3200.2, change "estate" to "estates", and in the next to last line of § 3200.2, insert the word "Act" between "Management" and "of".

145. On page 17369, second column, the last sentence of § 3206.1–2, "For unit bond forms see subpart 3284 of this title.", is removed.

154. On page 17370, first column, in line 1 insert the word "on" between the quotation mark and the word "unleased".

August 9, 1988.

James E. Cason,

Deputy Assistant Secretary of the Interior.

[FR Doc. 88–18906 Filed 8–19–88; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Parts 3000, 3100, 3110, 3120, 3130, 3160, 3180, 3200, and 3280

[AA–620–88–4111–01–24–10; Circular No. 2608]

Minerals Management; General: Oil and Gas Leasing: Noncompetitive Leases: Competitive Leases: Oil and Gas Leasing—National Petroleum Reserve—Alaska: Onshore Oil and Gas Operations: Onshore Oil and Gas Unit Agreements—Unproven Areas: Geothermal Resources Leasing; General: Geothermal Resources Unit Agreements—Unproven Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking; correction; interpretation.

SUMMARY: This document corrects typographical and editorial errors in the final rulemaking implementing the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (the Reform Act), published in the **Federal Register** on June 17, 1988 (53 FR 22814). This document also provides further interpretation of that rulemaking with regard to (1) the need for consent of a surety for an operator to be covered by a lessee's statewide or nationwide bond, and (2) whether a future interest lessee who holds the present interest lease and assigns or loses it also assigns or loses the future interest lease.

EFFECTIVE DATE: June 17, 1988.

ADDRESS: Inquiries or suggestions should be sent to: Director (500), Bureau of Land Management, Room 5647, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Judith I. Reed, (202) 653–2190.

SUPPLEMENTARY INFORMATION: In addition to the correction made below, this document responds to public inquiries requesting clarification of certain provisions of the final rulemaking published in the **Federal Register** on June 17, 1988, implementing the Reform Act. Further corrections of printing errors may also be found in a notice published by the **Federal Register** elsewhere in this issue.

Since promulgation of the final rulemaking on June 17, 1988, the Bureau of Land Management has been requested to clarify whether the provision of the last sentence of § 3104.2, which states that the "operator on the ground shall be covered by a bond in his/her own name as principal, or a bond in the name of the lessee or sublessee, provided that a consent of the surety, or the obligor in the case of a personal bond, to include the operator under the coverage of the bond is furnished to the Bureau office maintaining the bond", applies with equal force to statewide and nationwide bonds provided for in § 3104.3.

Because a statewide or nationwide bond is a substitute form of bond allowing lessees and sublessees to proceed without multiple individual lease bonds, the requirement that operators provide a consent of surety to conduct operations under coverage of another party's bond applies equally to both individual lease bonds and statewide or nationwide bonds.

The Bureau has also been requested to clarify the portions of §§ 3110.9–4(a)(2) and 3120.7–2(a)(2) that require Federal future interest lessees who also are present interest lessees of the same lands to lose their future interest leases to the same extent that their interest in the present interest lease is lost through expiration, termination, cancellation, and relinquishment.

Prior to this rulemaking, future interest lessees have been required, as a condition precedent to issuance of their lease, to subscribe to a supplemental agreement providing that the loss of the present interest lease, to the extent that the lessee held any such present interest, would cause the loss of the future interest lease to the same extent. While the rulemaking eliminated the old supplemental agreement, whose primary function was to prescribe rentals and royalties due prior to the vesting of the interest of the United States, the other provisions of the agreements governing assignments remain in effect.

From the viewpoint of the lessor, it is advantageous and in the public interest the assure that there is a smooth transition between the present interest lessee and the future interest lessee at the time the basic ownership vests in the United States. This is done by ensuring that the present interest lessee is also the future interest lessee. However, in a competitive situation, the United States cannot ensure that that transition would be smooth when the present interest owner fails to become the high bidder and, as a result, the future interest owner. Even so, it remains in the public interest to provide, whenever possible, for a smooth transition that does not threaten production and the royalty income stream. Accordingly, it has always been and remains policy that when a future interest lessee holding the present interest lease assigns or loses the present interest lease, he/she also assigns or loses the future interest lease.

The Bureau of Land Management expects that the prudent present interest lessee will logically acquire the future interest lease to protect any investment

in production. The present interest lessee can obtain the future interest lease by outbidding others present at the oral auction. A common, if not universal, provision of the present interest fee leases is for continuation of the lease so long as the lease is producing. Most present interest lessees should logically seek to develop their present lease once they have obtained the future interest lease.

In short, the future interest regulations promote two policy objectives: competitiveness and continuity. The destruction of this continuity is sufficient reason to cause the loss of the future interest lease and to allow the United States to expose the future interest to competitive bidding again, where the new present interest owner has a fair opportunity to acquire the future interest lease and thus reestablish the continuity.

Accordingly, the Department of the Interior has no present plans to amend §§ 3110.9 or 3120.7, as they currently accomplish these policy objectives.

The following corrections are made in the final rulemaking implementing the Reform Act that was published on June 17, 1988 (53 FR 22814):

1. On page 22840, middle column, the amendatory language of Item 37 is corrected by revising it to read as follows:

37. Section 3108.3 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (d), removing paragraph (c), and adding new paragraphs (b) and (c), to read as follows:

2. In line 1 of § 3110.5–5 (page 22843, first column), change "variations" to "variation".

August 9, 1988.

James E. Cason,

Deputy Assistant Secretary of the Interior.

[FR Doc. 88–18905 Filed 8–19–88; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–6933]

Changes in Flood Elevation Determinations; Maryland and New Jersey

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

PART 65—[AMENDED]

The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maryland: Prince George's..	Unincorporated areas.....	Aug. 2, 1988 and Aug. 9, 1988. *Prince George's Journal*.....	The Honorable Parris N. Glendening, County Executive, Prince George's County, County Administrative Building, Upper Marlboro, Maryland 20772.	July 22, 1988.....	245208
New Jersey: Bergen	Borough of Ramsey.....	July 29, 1988 and Aug. 5, 1988. *Ramsey-Mahwah Reporter*.....	The Honorable Nicholas Saros, Ramsey Borough Administrator, 33 North Central Avenue, Ramsey, New Jersey 07446.	July 22, 1988.....	340064B

Issued: August 12, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-18926 Filed 8-19-88; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 67

Final Flood Elevation Determinations; Arizona et al.

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The authority citation for Part 67 continues to read as follows:

PART 67—[AMENDED]

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
ARIZONA	
Coconino County (Unincorporated Areas) (FEMA Docket No. 6929)	
Oak Creek:	
Approximately 0.8 mile upstream of Route 179	*4,239
Approximately 0.9 mile upstream of Route 179	*4,245
Approximately 1.0 mile upstream of Route 179	*4,256
Approximately 1.1 miles upstream of Route 179	*4,263
Maps are available for inspection at the Coconino County Department of Community Development, County Administrative Center, 219 East Cherry Avenue, Flagstaff, Arizona.	
MASSACHUSETTS	
Fitchburg (City), Worcester County (FEMA Docket No. 6929)	
North Nashua River:	
At downstream corporate limits	*333
Approximately 1,300 feet upstream of corporate limits	*335
Maps available for inspection at the Conservation Commission and the Planning Office, Second Floor, City Hall, 718 Main Street, Fitchburg, Massachusetts.	
NEW YORK	
Wheatfield (Town), Niagara County (FEMA Docket No. 6929)	
Niagara River:	
At downstream corporate limits	*569
At upstream corporate limits	*570
Maps available for inspection at the Building Inspector's Department, Town Hall, North Tonawanda, New York.	

Issued: August 12, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-18925 Filed 8-19-88; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 67

Final Flood Elevation Determinations; Idaho

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Jonh L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

PART 67—[AMENDED]

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
IDAHO	
Caldwell (City), Canyon County (FEMA Docket No. 6927)	
Boise River:	
Approximately 300 feet downstream of Union Pacific Railroad	*2,348
Just upstream of Chicago Street	*2,352
Just downstream of U.S. Highway 84	*2,355
Approximately 2,800 feet upstream of Plymouth Street at corporate limit	*2,365
Approximately 6,225 feet upstream of Plymouth Street	*2,367
Maps are available for review at the City Engineers Office, City of Caldwell, 621 Cleveland Street, Caldwell, Idaho.	

Issued: August 16, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88–18927 Filed 8–19–88; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 382

[Docket No. R–107]

Procedures for Determining Fair and Reasonable Rates for Bulk Cargo Vessels

AGENCY: Maritime Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: The Maritime Administration (MARAD) is continuing to review the establishment and implementation of regulations governing the determination of fair and reasonable guideline rates for bulk preference cargoes shipped in U.S.-flag bulk vessels. To further evaluate this procedure and to elicit facts and opinions on this matter, MARAD has decided to hold a public hearing.

DATES: This hearing is to be held September 8, 1988, beginning at 9:00 a.m.

ADDRESS: Room 3442, Nassif Building, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, Tel. (202) 366–2323. Anyone desiring to participate in this hearing should notify the contact person by September 2, 1988, and indicate the amount of time that they will need to present their views. Prepared statements and comments may be submitted by interested parties unable to participate in the hearing, provided that they are received by MARAD by September 2, 1988, and so that they may be reproduced and made available at the hearing.

SUPPLEMENTARY INFORMATION: Section 901(b)(1) of the Merchant Marine Act of 1936 (the Act), as amended (46 U.S.C. 1241(b)), requires that at least 50 percent of any equipment, materials or commodities purchased by the United States for its own account or for the account of any foreign nation without provision for reimbursement, or acquired as the result of an advance of funds or credits or a guarantee from the United States Government, should be transported on privately owned United States-flag commercial vessels to the extent that such vessels are available at fair and reasonable rates. Upon request, the Maritime Administration provides guideline rates to agencies to assist in the determination of fair and reasonable

rates. Section 901(b)(2) of the Act provides the authority for the Maritime Administration (by delegation from the Secretary of Transportation) to issue regulations governing the administration of section 901(b)(1).

MARAD published an initial Notice of Proposed Rulemaking (NPRM) on August 6, 1985 (50 FR 31735) that proposed data submission requirements and a methodology for determining fair and reasonable rates for full shiploads of dry and liquid bulk preference cargoes on U.S.-flag commercial bulk cargo vessels.

MARAD received nine comments and concluded that the methodology was generally unsatisfactory. Accordingly, MARAD issued a Supplemental Notice of Proposed Rulemaking (SNPRM) on December 17, 1986 (51 FR 45136), that proposed and requested public comments on a cost-based methodology for calculating fair and reasonable guideline rates that would be based on each vessel's actual or constructed costs.

After reviewing the responses to the first SNPRM, MARAD issued a second SNPRM on June 22, 1988. The revised methodology of the second SNPRM proposed the use of aggregate averages to determine all operating costs, except fuel, using the historical data submitted by the operators, and divided the ships into competitive groupings based on size and type.

As a result of communications received after the publication of the second SNPRM, MARAD has decided to hold a public hearing. MARAD requests that interested parties participate by presenting their comments, views and opinions on matters that concern them and by providing knowledgeable witnesses and other pertinent information. MARAD received many similar comments in response to the three foregoing notices. To avoid time-consuming duplication in presentations at the hearing, MARAD suggests that prospective participants, with identical or substantially similar views or interests, coordinate and consolidate their presentations or submissions for the record. MARAD also requests that witnesses be prepared to present detailed information to justify their position(s).

By Order of the Maritime Administrator.

James E. Saari,

Secretary, Maritime Administration.

Date: August 17, 1988.

[FR Doc. 88-18993 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-81-M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1505 and 1506

[FRL-3431-3]

Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document establishes a final rule regarding the Environmental Protection Agency's (EPA) procurement procedures for contracting for expert services. The Superfund Amendments and Reauthorization Act of 1986 authorizes the use of other than competitive procedures in acquiring the services of experts. The expert services would be used in preparing or prosecuting a civil or criminal action under the Act. The intended effect of this rule is to implement the provisions of the Act by an amendment to the EPA Acquisition Regulation.

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Edward N. Chambers, Environmental Protection Agency, Procurement and Contracts Management Division (PM-214F), 401 M Street, SW., Washington, DC 20460, Telephone 202/382-5028.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Regulation (FAR) 6.1 requires full and open competition, with certain limited exceptions, in soliciting offers and awarding Government contracts.

The Superfund Amendments and Reauthorization Act of 1986 (SARA) Section 109(e) authorizes the use of other than competitive procedures, i.e. other than full and open competition, in procuring the services of experts for use in preparing or prosecuting a civil or criminal action under SARA.

The purpose of this final rule is to recognize the provisions of SARA and provide procedures to be employed when the exception applies.

B. Executive Order 12291

The Office of Management and Budget (OMB) Bulletin No. 85-7, dated December 14, 1984, establishes the requirements for OMB review of agency procurement regulations. This regulation does not fall within any of the categories cited in the Bulletin requiring OMB review.

C. Public Comments

The EPA published a proposed rule for public comment in the **Federal Register** on April 7, 1988, 53 FR 11519. The EPA received no public comments. No revisions have been made to the proposed rule.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply. This final rule contains no information collection requirements requiring the approval of OMB under 44 U.S.C. 3501 *et seq.*

E. Regulatory Flexibility Act

The EPA certifies that this rule does not have a significant impact on a substantial number of small entities. The rule permits the EPA to use other than full and open competition in acquiring the services of experts in preparing or prosecuting a civil or criminal action under the authority of the Superfund Amendments and Reauthorization Act of 1986 (SARA). The method of contracting for such services must necessarily be the same for both small and large entities.

List of Subjects in 48 CFR Parts 1505 and 1506

Government procurement, Publicizing contract actions and competition requirements.

For the reasons set out in the preamble, Chapter 15 of Title 48 Code of Federal Regulations is amended as set forth below:

1. The authority citation for 48 CFR Parts 1505 and 1506 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

PART 1505—[AMENDED]

2. Section 1505.202 is revised to read as follows:

1505.202 Exceptions.

(a) The contracting officer need not submit the notice required by FAR 5.201 when the contracting officer determines in writing that the contract is for the services of experts for use in preparing or prosecuting a civil or criminal action under the Superfund Amendments and Reauthorization Act of 1986.

(b) The Head of the Contracting Activity (HCA) is delegated the authority to make the written determination in FAR 5.202(b).

PART 1506—[AMENDED]

3. Subpart 1506.3 is amended by adding section 1506.302-5 to read as follows:

1506.302-5 Authorized or required by statute.

(a) *Authority.* Section 109(e) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) is cited as authority.

(b) *Application.* (1) The contracting officer may use other than full and open competition to acquire the services of experts for use in preparing or prosecuting a civil or criminal action under SARA whether or not the expert is expected to testify at trial. The contracting officer need not prepare the written justification under FAR 6.303 when acquiring expert services under the authority of section 109(e) of SARA. The contracting officer shall document the official contract file when using this authority.

(2) The contracting officer shall give notice to the Agency's Competition Advocate whenever a contract award is made using other than full and open competitition under this authority. The notice shall contain a copy of the contract and the summary of negotiations.

Date: August 10, 1988.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 88-18729 Filed 8-19-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 80482-8082]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of reopening.

SUMMARY: NOAA announces the reopening of the ocean recreational salmon fishery within the exclusive economic zone (EEZ) between the U.S.-Canada border and Leadbetter Point, Washington (46°38'10" N. latitude). The fishery from the Queets River to Leadbetter Point, which closed at midnight, July 31, 1988, will reopen for 24 hours on August 18, 1988. The fishery from the U.S.-Canada border to the Queets River, which closed at midnight, August 2, 1988, will reopen for 24 hours on August 19, 1988. Evaluation of landing data subsequent to the closures indicates that the closures were based on overestimates of actual catch, and that sufficient coho and chinook salmon remain to allow an additional day of fishing. The daily recreational bag limit will be 2 fish of any species with no area restrictions. This action is intended to maximize the harvest of coho and chinook salmon in these subareas without exceeding the ocean share of salmon allocated to the recreational fishery.

EFFECTIVE DATES: Reopening of the EEZ to recreational salmon fishing: (1) Between the Queets River and Leadbetter Point, Washington, is effective from 0001 hours to 2400 hours local time August 18, 1988, and (2) between the U.S.-Canada border and the Queets River, Washington, is effective from 0001 hours to 2400 hours local time August 19, 1988. For each open period, the daily bag limit will be 2 fish of any species, and no area restrictions will apply. Comments on this action will be received through September 2, 1988.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(2) that "If a fishery is closed under a quota before the end of a scheduled season based on overestimate of actual catch, the Secretary will reopen that fishery in as timely a manner as possible for all or part of the remaining original season provided the Secretary finds that a reopening of the fishery is consistent with the management objectives for the affected species and the additional open period is no less than 24 hours."

Management measures for 1988 were effective on May 1, 1988 (53 FR 16002, May 4, 1988). The recreational fishery from the Queets River to Leadbetter Point, Washington, was closed at midnight, July 31, 1988 (53 FR 29338, August 4, 1988), and the recreational fishery from the U.S.-Canada border to the Queets River, Washington, was closed at midnight, August 2, 1988 (53 FR 29479, August 5, 1988). Both closures were based on the projected attainment of subarea quotas of 50,000 and 20,000 coho salmon, respectively. Subsequent evaluation of landings indicates that these projections were based on overestimates of actual catch.

According to the best available information, recreational catches of coho salmon to date totaled 48,300 and 18,100 fish in the subareas of Queets River to Leadbetter Point, WA and U.S.-Canada border to Queets River, respectively, leaving 1,700 and 1,900 coho salmon unharvested in each subarea quota. Furthermore, 10,100 chinook salmon are available for harvest in the overall recreational chinook quota for the area north of Cape Falcon, Oregon. (The commercial fishery north of Cape Falcon exceeded its overall commercial chinook quota by 1,100 fish. This quota overage has been subtracted from the 11,200 chinook salmon which remained unharvested when the recreational fishery north of Cape Falcon closed.)

These amounts of available coho and chinook salmon have been determined to be sufficient for an additional open period of 24 hours in each subarea. This action is being taken in as timely a manner as possible for a part of the remaining original seasons which would have ended no later than September 5, 1988. Reopening of the recreational fishery in these two subareas is consistent with the management objectives for coho and chinook salmon in these subareas.

Therefore, NOAA issues this notice to reopen the recreational fishery in the EEZ: (1) Between the Queets River and Leadbetter Point, Washington (46°38'10" N. latitude) from 0001 hours to 2400 hours local time August 18, 1988, and (2) between the U.S.-Canada border and the Queets River, Washington, from 0001 hours to 2400 hours local time August 19, 1988. A closed area which was established between Leadbetter Point and Klipsan Beach, Washington, at midnight, July 24, 1988, is not affected by this notice and remains in effect (53 FR 28227, July 27, 1988). This notice does not apply to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding these reopenings. The State of Washington also will reopen the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action.

Because of the need for immediate action to reopen the recreational fishery, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15

days after the effective date, through September 2, 1988.

Other Matters

This action is authorized by 50 CFR 661.21(a)(2) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 17, 1988.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-18970 Filed 8-17-88; 2:15 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 162
Monday, August 22, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 2; Doc. No. 5742S]

General Administrative Regulations—Standards for Approval; Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Administrative Regulations—Standards for Approval; Standard Reinsurance Agreement to remove a word appearing at the end of one of the subsections outlining qualifications for an agreement by an applicant with less than eight of the Investment Regulatory Information System (IRIS) ratios in the usual range, which significantly changes the intent of the qualifying criteria set out in this subsection. The intent of this rule is to remove this word and provide the correct continuity of criteria in this subsection.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 21, 1988, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as July 1, 1991.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other purposes.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Monday, May 11, 1987, FCIC published a Final Rule in the **Federal Register** at 52 FR 17540, issuing a new Subpart L in Chapter IV of Title 7 of the Code of Federal Regulations (CFR) to contain the Standards for Approval; Reinsurance Agreement (7 CFR Part 400, Subpart L), effective for the 1988 contract year, beginning July 1, 1988.

In § 400.152, titled "Qualifying with less than eight IRIS ratios in the usual range" (appearing at 52 FR 17545), paragraph (b) ends with the word "and" which significantly changes the intent of the qualifying criteria set out in this subsection, outlining the criteria for an insurer with less than eight of the Insurance Regulatory Information System (IRIS) ratios in the usual range. The IRIS ratios were developed by the National Association of Insurance Commissioners (NAIC). Their primary use is to assist State Insurance Departments to oversee the financial condition of insurers. FCIC uses them to evaluate the financial strength of applicants for reinsurance.

An insurer with less than eight of the IRIS ratios in the usual range, may qualify for a reinsurance agreement if any *one* of the criteria itemized in 7 CFR 400.152 is met. The word "and" at the end of § 400.152(b) has the effect of combining paragraphs (b) and (c). Paragraphs (b) and (c) are separate criteria. For this reason, FCIC proposes to remove the word "and" from the end of 7 CFR 400.152(b).

Written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 400

General administrative regulations, Standards for approval, Reinsurance agreement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Administrative Regulations; Standards for Approval; Reinsurance Agreement (7 CFR Part 400, Subpart L), proposed to be effective for the 1989 contract year, as follows:

PART 400—[AMENDED]

1. The authority citation for 7 CFR Part 400, Subpart L, continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

§ 400.152 [Amended]

2. 7 CFR 400.152(b) is amended by removing the word "and" at the end thereof.

Done in Washington, DC, on August 16, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-18990 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 405

[Amdt. No. 2; Doc. No. 5783S]

Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Apple Crop Insurance Regulations (7 CFR Part 405), effective for the 1989 and succeeding crop years, by revising and reissuing the Apple Fresh Fruit Option and the Pilot Apple Sunburn Option. The intended effect of this rule is to: (1) Reduce the add back percentage of cull production to be counted as production for the purposes of loss adjustment, and to incorporate minor grammatical changes in the Fresh Fruit Option; and (2) replace the Pilot Apple Sunburn Option, previously only available in Washington State with a revised Apple Sunburn Option.

DATE: Written comments, data, and options on this proposed rule must be submitted not later than September 21, 1988, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date for these regulations is April 1, 1990.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small business, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to amend the Apple Crop Insurance Regulations (7 CFR Part 405), to: (1) Revise and reissue the Apple Fresh Fruit Option (7 CFR 405.8(c)) to reduce the percentage of cull production added back to production to count for purposes of loss adjustment from 30 percent to 15 percent, and to incorporate minor grammatical changes; and (2) replace the Pilot Apple Sunburn Option (7 CFR 405.9), previously only available in Washington State with a revised Apple Sunburn Option available outside of Washington State.

Under the present provisions of § 405.8(c), the Apple Fresh Fruit Option, apples which are knocked to the ground by wind, or frozen to the extent that they can be harvested but not packed or marketed as fresh apples are considered 100 percent cull production. Thirty (30) percent of all such cull production is added back as production to count for loss adjustment purposes.

FCIC herein proposes to reduce the percentage of cull production add back from 30 percent to 15 percent to provide a more equitable determination in loss adjustment by more nearly reflecting the normal percentage of cull production. FCICD also proposes to make minor grammatical changes.

FCIC is also proposing to issue a new § 405.9 Apple Sunburn Option, replacing the Pilot Apple Sunburn Option, published in the **Federal Register** at 52 FR 1467, January 20, 1988. These programs are designed to blend together to provide a broader base of protection for insured apple producers.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register**. Written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 405

Apple crop insurance regulations.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Apple Crop Insurance Regulations (7 CFR Part 405), proposed to be effective for the 1989 and succeeding crop years, as follows:

1. The authority citation for 7 CFR Part 405 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR Part 405 is amended by revising and reissuing § 405.8(c) and § 405.9 to read as follows:

PART 405—APPLE CROP INSURANCE REGULATIONS

* * * * *

§ 405.8 Apple Fresh Fruit Option.

* * * * *

(c) The Option reads as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Apple Fresh Fruit Option

This is a continuous amendment (see section 15 of the basic policy).

Insured's Name _____

Contract No. _____

Address _____

Crop Year _____

Identification No:

SSN _____

Tax _____

It is hereby agreed to amend the basic Federal Crop Insurance Apple Policy under the following terms and conditions:

1. This Option must be submitted to us on or before the final date for accepting applications for the initial crop year in which you wish to insure your apples under this Option.

2. You must have an apple policy in force.

3. You must insure all the acreage of apples in the county in which you have a share regardless of the intended use (fresh-market or processing).

4. In addition to section 8 of the apple policy, inspection and grading of the fruit

must be done by us prior to harvest or no quality adjustment will be made.

5. Separate line entries according to intended use (fresh-market or processing) must be included on the acreage report required under section 3 of the apple policy.

6. Your apples intended for processing will be insured under the quality provisions of A only (See below).

7. Your apples intended for fresh-market will be insured under the quality provisions of either A or B, whichever you select.

8. If you select A only, A will apply to all of your apples intended for processing and fresh-market.

9. If you select B, those provisions will apply to all of your apples intended for fresh-market and the provisions of A will apply to all of your apples intended for processing.

10. a.

You must select either A or B by marking the appropriate space below.

A____

In addition to section 9.e. and in lieu of 17.q. of the Apple Policy, your production to count for any acreage designated for processing or fresh-market will be adjusted when your apples are damaged by hail to the extent that such applies will not grade U.S. No. 1 (processing), (7 CFR 51.430 *et seq.*)). The adjustment factor (not to exceed 1) will be the ratio of the average market price (received by you or determined by us, whichever is larger) for your damaged production to the average market price for U.S. No. 1 (processing) apples. There will be no adjustment for quality if the apples do not grade U.S. No. 1 because of size, color, or russeting.

B____

In lieu of sections 9.e.(1), 9.e.(2), 17.1, and 17.q of the Apple Policy, the total production to be counted for a unit must include all harvested and appraised production. Harvested apple production which, due to hail damage, does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards (7 CFR 51.300 *et seq.*), will be adjusted as follows:

(1) Production with 21 through 40 percent not grading U.S. Fancy or better due to hail damage will be reduced 2 percent of each percent in excess of 20 percent. The difference between the reduced production and the total production will be considered cull production.

(2) Production with 41 through 50 percent not grading U.S. Fancy or better due to hail damage will be reduced 40 percent plus an additional 3 percent for each percent in excees of 40 percent. The difference between the reduced production and the total production will be considered cull production.

(3) Production with 51 through 64 percent not granting U.S. Fancy or better due to hail damage will be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production will be considered cull production.

(4) Production with 65 percent or more not grading U.S. Fancy or better due to hail damage will be considered 100 percent cull production.

b. Apples which are knocked to the ground by wind or frozen to the extent that they can be harvested but not packed or marketed as fresh apples will be considered 100 percent cull production.

c. Fifteen (15) percent of all cull production will be counted as production.

No reduction in grade will be applied to any apple grading less than U.S. Fancy due solely to shape, russeting, or color.

d. Appraised production to be counted must include:

(1) Potential production lost due to uninsured causes and failure to follow recognized good apple management practices; and

(2) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed without our consent.

e. Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is;

(1) Harvested;

(2) Further damaged by an insured cause and reappraised by us; or

(3) In whole or part knocked to the ground by wind or hail or frozen on the tree to the extent that harvest is not practical.

11. Your premium rate for Apples under either A or B, as elected by you, will be established by the actuarial table.

12. All provisions of the apple policy not in conflict with this option are applicable.

13. All determinations under this option will be made by us.

14. This Option may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date provided by the policy, preceding such crop year.

Insured's Signature ____

Date ____

Corporation Representative's Signature and Code Number ____

Date ____

§ 405.9 Apple Sunburn Option.

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Apple Sunburn Option

This is not a continuous option. Applications for this option must be made prior to the sale closing date if you want this optional coverage. Upon our approval this option is applicable *only* for the 19____ crop year.

Insured's Name ____

Contract No. ____

Address ____

Crop Year ____

Identification No:

SSN ____

Tax ____

It is hereby agreed to amend the Federal Crop Insurance Apple Policy in accordance with the following terms and conditions:

1. This option must be submitted to us on or before the final date for accepting applications for each crop year in which you wish to insure apples under this option.

2. You must have an apple policy and the Apple Fresh Fruit Option B in force.

3. You must insure all the acreage of apples in the county to which the Apple Fresh Fruit Option B applies and in which you have a share.

4. In additon to the causes of loss specified in paragraph 1.a. of the Apple Crop Insurance policy, excess sun is an insurable cause of loss.

5. In lieu of sections 9.e.(1), 9.e.(2), 17.1, and 17.q. of the Apple Policy, the total production to be counted for a unit must include all harvested and appraised production. Harvested apple production which, due to excessive sun damage, does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards, will be adjusted as follows:

a. Production with 21 thru 40 percent not grading U.S Fancy or better due to excessive sun damage will be reduced 2 percent for each percent in excess of 20 percent. The difference between the reduced production and the total production will be considered cull production.

b. Production with 41 thru 50 percent not grading U.S. Fancy or better due to excessive sun damage will be reduced 40 percent plus an additional 3 percent for each percent in excess of 40 percent. The difference between the reduced production and the total production will be considered cull production.

c. Production with 51 thru 64 percent not grading U.S. Fancy or better due to excessive sun damage will be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production will be considered cull production.

d. Production with 65 percent or more not grading U.S. Fancy or better due to excessive sun damage will be considered 100 percent cull production.

Fifteen (15) percent of all cull production, will be counted as production.

6. The premium for this sunburn option will be established by the acturial table.

7. All provisions of the apple policy and the Fresh Fruit Option-B not in conflict with this option are applicable.

8. All determinations under this option will be made by us.

10. a. *"Excessive sun"* is defined as the exposure of the unharvested apples to direct or indirect sun sufficient to cause the apples to grade less than U.S. Fancy due to sunburn.

b. *Sunburn"* is defined in accordance with applicable U.S.D.A. Standards.

Insured's Signature ____

Date ____

Corporation Representative's Signature and Code Number ____

Date ____

Done in Washington, DC, on August 16, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-18988 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 441

[Amdt. No. 1; Doc. No. 5833S]

Table Grape Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Table Grape Crop Insurance Regulations (7 CFR Part 441), effective for the 1989 and succeeding crop years, by adding a calendar date for the end of the insurance period for Arizona grape producing counties. The intended effect of this rule is to add the calendar date for the end of the insurance period for those counties in Arizona recently approved for table grape crop insurance.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than September 21, 1988, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutions a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as May 1, 1991.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 291115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Enviornmental Impact Statement is needed.

FCIC herewith proposes to amend the Table Grape Crop Insurance Regulations (7 CFR Part 441), by adding a calender date for the end of the insurance period for table grape crop insurance in Arizona (7 CFR 441.7.g.).

The Board of Directors of FCIC approved the expansion of table grape crop insurance to include Arizona at a meeting held on June 8, 1988. This action makes it possible to carry out that directive.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection and copying in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 441

Crop insurance, Table grapes.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Table Grape Crop Insurance Regulations (7 CFR Part 441), proposed to be effective for the 1989 and succeeding crop years, as follows:

PART 441—[AMENDED]

1. The authority citation for 7 CFR Part 441 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 441.7(d)7.g. is added to read as follows:

* * * * *

(d) * * *

7. Insurance Period.

* * * * *

g. The following applicable date of the calendar year in which the grapes are normally harvested:

State and county(ies)	Variety	Date
Arizona:		
All Counties	Perlette	June 15.
	Flame Seedless.	July 15.
	All others	July 31.
California:		
Fresno, Kern, Kings, Madera, and Tulare.	Perlette	August 15.
	Cardinal	August 15.
	Exotic	August 31.
	Flame Seedless.	August 31.
	Superior Seedless.	August 31.
	Red Malaga	September 15.
	Queen	September 15.
	Thompson Seedless.	September 15.
	Black Rose	September 30.
	Italia	September 30.
	White Malaga	October 15.
	Ribier	October 15.
	Ruby Seedless	October 15.
	All others	October 31.
Merced, Stanislaus, and San Joaquin.	Flame Seedless.	September 15.
	Thompson Seedless.	September 30.
	Ribier	October 15.
	Flame Tokay	October 15.
	All others	October 31.
Riverside, and San Bernadino.	Beauty Seedless.	July 15.
	Perlette	July 15.
	All others	July 31.

Done in Washington, DC on August 16, 1988.

John Marshall,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 88–18989 Filed 8–19–88; 8:45 am]

BILLING CODE 3410–08–M

Rural Electrification Administration

7 CFR Part 1754

Advance and Disbursement of Funds; Telephone Loan Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration proposes to add Part 1754, Advance and Disbursement of Funds—Telephone Loan Progam, to 7 CFR Chapter XVII. This new subpart

consolidates, revises, and clarifies the policies, requirements, and procedures now contained in several REA publications pertaining to the advance and disbursement of REA loan funds for the planning and construction of telephone facilities and systems and other approved loan purposes.

Part 1754 sets forth the administrative policies, requirements, and procedures for the advance and disbursement of REA telephone loan and other funds to and from the REA Construction Fund. The primary objectives of the proposed rule are to update, consolidate, clarify, and simplify REA policies and procedures; to lessen the burden on borrowers involed in planning and construction of telephone facilities; and to decrease the time required to process advances and disbursements.

All borrowers will be affected by this rule.

DATE: Public comments concerning this proposed rule must be received by REA no later than September 21, 1988.

ADDRESS: Comments may be mailed to William F. Albrecht, Deputy Assistant Administrator—Telephone, Rural Electrification Administration, Room 4056, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. Comments received may be inspected in Room 4056 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: William F. Albrecht, Deputy Assistant Administrator—Telephone, Rural Electrification Administration, Room 4056, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 382–9549. The Draft Regulatory Impact Analysis describing the options considered in developing this rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarntees, and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Public reporting burden for this collection of infomation is estimated to average 1.4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the date needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Attn: Desk Officer for REA, Office of Mangagement and Budget, Washington, DC 20503.

Background

Currently, the policies and requirements concerning the advance and disbursement of telephone loan funds are contained in numerous REA Bulletins and internal REA Staff Instructions. Many of these are outdated and contain conflicting information. It is necessary to consolidate the information and make it available to the public by publishing it in the **Federal Register.**

This proposed rule eliminates the semi-annual Financial Requirement Statement (FRS) reporting requirement and streamlines other requirements reducing the borrower's burden, while permitting REA to maintain the security of the Government's loans.

7 CFR Part 1754 supersedes any sections of REA Bulletins with which it is in conflict.

List of Subjects in 7 CFR Part 1754

Loan programs—communications, Telecommunications, Telephone.

Therefore, REA proposes to amend 7 CFR Chapter XVII by adding the following new Part 1754:

PART 1754—ADVANCE AND DISBURSEMENT OF FUNDS—TELEPHONE LOAN PROGRAM

Sec.

1754.1 General.
1754.2 Definitions.
1754.3 Introduction.
1754.4 The Telephone Loan Budget.
1754.5 Budget adjustment.
1754.6 The construction fund.
1754.7 The Financial Requirement Statement (FRS).
1754.8 Temporary excess construction funds.
1754.9 Order and method of advances of telephone loan funds.
1754.10–1754.99 [Reserved]

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

§ 1754.1 General.

(a) The standard loan documents (as defined in 7 CFR Part 1758) contain provisions regarding advances and disbursements of loan funds by telephone borrowers. This part implements certain of the provisions by setting forth requirements and procedures to be followed by borrowers in obtaining advances and making disbursements of loan and nonloan funds.

(b) This part supersedes any sections of REA Bulletins with which it is in conflict.

§ 1754.2 Definitions.

As used in this part:

(a) "Administrator" means the Adminsitrator of REA. See 7 CFR Part 1745.

(b) "Advance" means transferring funds from REA or FEB to the borrower's construction fund.

(c) "Borrower" means any organization that has an outstanding loan made or guaranteed by REA, or that is seeking such financing. See 7 CFR Part 1745.

(d) "Construction Fund" means the REA Construction Fund Account required by section 2.4 of the Loan Contract into which all REA loan funds are advanced.

(e) "Disbursement" means the paying of money by the borrower out of the construction fund for approved loan purposes.

(f) "FFB" means the Federal Financing Bank.

(g) "FRS" means REA Form 481, (OMB–No. 0572–0023) Financial Requirement Statement.

(h) "Interim Construction" means the purchase of equipment or the conduct of construction under an REA-approved plan of interim financing. See 7 CFR Part 1749.

(i) "Interim financing" means funding for a project the borrower desires to be financed by an REA loan but for which no REA loan funds have been made available. See 7 CFR Part 1749.

(j) "Loan" ("REA Loan") means any loan made or guaranteed by REA. See 7 CFR Part 1745.

(k) "Loan Documents" means the loan contract, note and mortgage between the borrower and REA and any associated document pertinent to a loan.

(l) "Loan Funds" ("REA Loan Funds") means funds provided by REA through direct or guaranteed loans.

(m) "RIB" means the Rural Telephone Bank.

§ 1754.3 Introduction.

REA is under no obligation to make or approve advances of loan funds unless the borrower is in compliance with all terms and conditions of the loan documents. The borrower shall use funds in its construction fund only to make disbursements approved by REA.

§ 1754.4 The Telephone Loan Budget.

When the loan is made, REA provides the borrower a Telephone Loan Budget, REA Form 493. This budget divides the loan into budget accounts such as "Engineering." When a contract or other document is approved by REA, funds are encumbered from the appropriate budget account. See 7 CFR Part 1765.

§ 1754.5 Budget adjustment.

(a) If more funds are required than are available in a budget account, the borrower may request REA's approval of a budget adjustment to use funds from another account. The request shall include an explanation of the change, the budget account to be used, and a description of how the adjustment will affect loan purposes. REA will not approve a budget adjustment that affects other loan purposes unless the borrower satisfies REA that the additional funds are available from another source, requests a deficiency loan, or scales back the project.

(b) REA may make a budget adjustment without a formal request by the borrower when a budget account is insufficient to encumber funds for a contract which could otherwise be approved by REA. See 7 CFR Part 1765.

§ 1754.6 The construction fund.

(a) The construction fund is used by the borrower primarily to hold advances until disbursed.

(b) All advances shall be deposited in the construction fund.

(c) REA may require that other funds be deposited in the construction fund. These may include equity or general fund contributions to construction costs, service termination payments, proceeds from the sale of property, amounts recovered from insurance for losses during the construction period, and interest received on loan funds in savings or interest bearing checking accounts, and similar receipts. Deposit slips for any deposit to the construction fund shall show the source and amount of funds deposited and be executed by an authorized representative of the bank.

(d) Funds shall be disbursed only up to the amount approved for advance on the FRS as described in § 1754.7. No funds may be withdrawn from the fund except for loan purposes approved by REA.

(e) The disbursement of non-loan funds requires the same REA approvals as loan funds.

(f) Disbursements must be evidenced by canceled checks. The invoices and supporting documentation needed for construction contracts are specified in the contracts and in 7 CFR Part 1765. Disbursements to reimburse the borrower's general fund shall be documented by a reimbursement schedule that lists the construction fund check number, date, and an explanation of amounts reimbursed by budget account.

§ 1754.7 The Financial Requirement Statement (FRS).

(a) To request advances, the borrower must submit to REA an FRS, a description of the transaction desired, and other information when required by REA.

(b) The FRS is used by REA and the borrower to record and control transactions in the construction fund. Approved contracts and other items are shown on the FRS under "Approved Purposes." Except as noted below, the amount approved for advance is 100 percent of the amount encumbered for that item. Funds are approved for advance as follows:

(1) *Construction*—(i) *Construction Contracts and Force Account Proposals.* Ninety percent of the encumbered amount (95 percent for outside plant). See § 1754.4. The final 10 percent (5 percent), when REA approves the closeout documents. When a contract contains supplement "A" (See 7 CFR Part 1765), 90 percent (95 percent) of the contract less materials supplied by the borrower. For the Supplement "A" materials, which are a separate entry on the FRS, 100 percent of the material cost.

(ii) *Work Orders.* The portion of the work order summary (See 7 CFR Part 1765) determined by REA to be for approved loan purposes.

(iii) *Work Order Fund.* Based on a borrower's request as described in 7 CFR Part 1765.

(iv) *Real Estate.* Upon request by the borrower after REA has determined that the borrower has submitted title evidence in compliance with REA Bulletin 380–1, Right-of-Way and Title Procedure—Telephone, or succeeding regulations.

(v) *Right of Way Procurement.* Based on the borrower's itemized costs.

(vi) *Joint Use Charges.* Based on copies of invoices from the other utility.

(2) *Engineering*—(i) *Preloan Engineering.* Based on a final itemized invoice from the engineer.

(ii) *Postloan Engineering Contracts.* The amount shown on the engineering estimate, REA Form 506, less the amount estimated for construction contract closeouts. The balance, when the engineering contract is closed.

(iii) *Force Account Engineering.* Ninety percent of the total amount of the REA approved force account engineering proposal. The balance, when the force account engineering proposal is closed.

(3) *Office Equipment, Vehicles and Work Equipment.* Based on copies of invoices for the equipment.

(4) *General*—(i) *Organization and Loan Expenditures.* Based on an itemized list of requirements prepared by the borrower.

(ii) *Construction Overhead.* Based on an itemized list of expenditures. If funds are required for employee salaries, the itemization shall include the employee's position, the period covered, total compensation for the period, and the portion of compensation attributable to the itemized construction.

(iii) *Legal Fees.* Based on itemized invoices from the attorney.

(iv) *Bank Stock.* Based on the amount of Class "B" Rural Telephone Bank stock established in the loan.

(5) *Operating Expenses*—(i) *Working Capital—New System.* Based on the borrower's itemized estimate.

(ii) *Current Operating Deficiencies.* Based on a current and projected balance sheet submitted by the borrower.

(6) *Debt Retirement and Refinancing.* Upon release of the loan, based on the amount in the approved budget.

(7) *Acquisitions.* Based on final itemized costs, but limited to the amount in the approved loan budget.

(c) Funds other than loan funds deposited in the construction fund, which shall include proceeds from the sale of property on which REA has a lien, (lines 10 and 11 on the FRS) are reported as a credit under total

disbursements. Disbursements of these funds are subject to the same REA approvals as loan funds.

(d) The borrower shall request advances as needed to meet its obligations promptly. Generally, REA does not approve an advance requested more than 60 days before the obligation is payable.

(e) Funds should be disbursed for the item for which they were advanced. If the borrower needs to pay an invoice for which funds have not been advanced and disbursement of funds for another item has been delayed, the latter may be disbursed to pay the invoice up to the amount approved for advance for that item on the FRS. The borrower shall make erasable entries on the next FRS showing the changes under "Total Advances to Date" and shall explain the changes in writing before REA will process the next FRS.

(f) Advances will be rounded down to the nearest thousands of dollars except for final amounts.

(g) The certification on each of the three copies of the FRS sent to REA shall be signed by a corporate officer or manager authorized by resolution of the board of directors to sign such statements. At the time of such authorization, a certified copy of the resolution and one copy of REA Form 675, Certificate of Authority, shall be submitted to REA.

(h) The documentation required for the FRS transactions are the deposit slips, the canceled construction fund checks and the supporting invoices or reimbursement schedules. These shall be kept in the borrower's files for periodic audits by REA.

§ 1754.8 Temporary excess construction funds.

(a) When unanticipated events delay disbursement of advances, the funds other than funds lent by FFB can be returned as a refund of an advance or can be used as follows depending on their source.

(1) With REA funds, the borrower may invest the funds in 5% Treasury Certificates of Indebtedness—R.E.A. Series.

(2) With FFB or RTB funds, the following apply:

(i) The borrower can invest the funds in short term securities issued by the United States Treasury.

(ii) If permitted by State law, the borrower may deposit the funds in savings accounts, including certificates of deposit, of federally insured savings institutions.

(3) Funds advanced by a guaranteed lender other than the FFB may, if so permitted by such lender, be invested under the terms and conditions described above for FFB advances.

(4) Any security or investment made under this authorization shall identify the borrower by its corporate name followed by the words "Trustee, Rural Electrification Administration."

(5) All temporary investments and all income derived from them shall be considered part of the construction fund and be subject to the same controls as cash in that account.

(6) Securities and other investments shall have maturity dates or liquidating provisions that ensure the availability of funds as required for the completion of projects and the payment of obligations.

(7) Any instrument evidencing a security or other investment herein authorized to be purchased or made, may not be sold, discounted, or pledged as collateral for a loan or as security for the performance of an obligation or for any other purpose.

(8) The Administrator may, at his sole discretion, require a borrower to pledge as additional security for loans to the borrower any security or other evidence of investment authorized hereby by forwarding to him all pertinent instruments and related documentation as he may reasonably require.

(9) Borrowers shall be responsible for the safekeeping of redeemable and negotiable securities and other investments.

(b) All interest and income received from investments of temporary excess funds as described in this section shall be deposited in the Construction Fund.

(c) The borrower shall account for investment proceeds on the next FRS submitted to REA. REA will make the necessary adjustments on budgetary records.

(d) The Administrator reserves the right to suspend any borrower's authorization to invest temporary excess funds contained herein.

§ 1754.9 Order and method of advances of telephone loan funds.

(a) Generally, advances are made against the oldest note not fully advanced. Exceptions include a special note issued in connection with a particular application of funds such as for an acquisition or refinancing. When a borrower has received more than one loan, any unadvanced funds from prior loans normally are advanced first. When a borrower has concurrent loans from the RTB and REA, the RTB funds are advanced first, unless specifically authorized in writing by REA.

(b) When a borrower has obligations related to interim construction, the first advance is generally limited to the amount required to retire those obligations.

(c) Normally, only one payment is made by the Automatic Clearing House (ACH) for an advance of funds.

(d) Borrowers of REA funds may request advances by wire service only for amounts greater than $500,000. FFB advances in any amount over $100,000 can be sent by wire service.

(e) The following information shall be included with the FRS:

(1) Name and address of borrower's bank.

(2) If borrower's bank is not a member of the Federal Reserve System, the name and address of its correspondent bank that is a member of the Federal Reserve System.

(3) American Bankers Association (ABA) nine digit identifier of the receiving banks (routing number and check digit).

(4) Borrower's bank account title and number.

(5) Any other necessary identifying information.

§§ 1754.10—1754.99 [Reserved]

Dated: August 16, 1988.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 88-19018 Filed 8-19-88; 8:45 am]

BILLING CODE 3910-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations to reassert NRC's jurisdiction for onsite low-level waste disposal for waste generated onsite at all reactors licensed by NRC in Agreement States. For facilities licensed pursuant to Part 70 of this chapter for special nuclear material activities, the Commission believes it prudent to clarify and to establish in the regulations that the onsite disposal of non-critical waste quantities of special nuclear material remains an NRC licensing function in order to retain control over the decommissioning process. The proposed rule is necessary to: (1) Provide a more centralized and consistent regulatory review of all onsite waste management activities and (2)

avoid duplication of regulatory effort by the NRC and Agreement States. The uniform review procedures which will accrue from the proposed rule are intended to provide greater assurance that onsite radioactive material will not present a health hazard at a later date after the site is decommissioned.

DATES: Comment period expires October 21, 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration can be given only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland. Copies of comments received may be examined to the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John C. Stewart, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3618.

SUPPLEMENTARY INFORMATION:

Background

The Commission believes that jurisdiction for onsite disposal in Agreement States of low-level waste generated onsite at NRC-licensed reactors should be vested in the Commission. For facilities licensed pursuant to Part 70 of this chapter for special nuclear material activities, the Commision believes it prudent to clarify and to establish in the regulations that the onsite disposal of non-critical waste quantities of onsite special nuclear material remains an NRC licensing function in order to retain control over the decommissioning process. In non-Agreement States there is no jurisdictional issue; the NRC licenses and regulates the onsite handling, storage and disposal of low-level radioactive waste. However, in Agreement States, the NRC licenses and regulates only onsite handling and storage of low-level radioactive waste for reactor licensees. Onsite disposal of low-level radioactive waste is regulated by the state regulatory agencies in Agreement States. In Agreement States, the Atomic Energy Commission did not reserve jurisdiction under 10 CFR 150.15(a) for onsite low-level waste disposal at NRC licensed facilities. The Statement of Considerations accompanying that regulation when it was promulgated states that "the states will have control over land burial of low level wastes," and that the Commission decided against "control over land burial of waste" in Agreement States by relinquishing jurisdiction of onsite disposal of low-level waste to the states while retaining AEC jurisdiction of high-level waste disposal (27 FR 1351; February 14, 1962).

In 1981, in revoking 10 CFR 20.304 (which previously allowed for the disposal of certain small quantities of radionuclides without prior NRC approval), the Commission determined that case-by-case regulation of onsite low-level waste disposal was needed because these materials could potentially cause significant radiation exposures if mishandled, improperly buried, or disturbed after disposal (45 FR 71761; October 30, 1980). Under current law Agreement States have the authority to regulate the disposal of low-level waste products onsite. In order for the NRC to retain control over the entire decommissioning process, it is necessary to amend 10 CFR 150.15(a) to return jurisdiction over onsite disposal to the NRC.

Proposed Rule

The Commission is proposing to amend 10 CFR 150.15 to reassert NRC jurisdiction over onsite low-level waste disposal generated onsite in Agreement States at NRC-licensed reactors and 10 CFR Part 70 facilities. The two new paragraphs below would be added to 10 CFR 150.15(a):

(8) The disposal, within the protected and exclusion areas of a nuclear reactor licensed by the Commision, of radioactive wastes generated at the reactor site.

(9) The disposal, within restricted areas and contiguous property established for activities carried out under licenses issued pursuant to Part 70 of this Chapter, of special nuclear material waste generated at the licensee's facility.

The terms restricted areas, protected areas, and exclusion areas have the same meanings as defined in §§ 20.3(a)(14), 73.2(g), and 100.3(a), respectively.

Environmental Impact: Categorical Exclusion

Under the Commission's regulations in 10 CFR Part 51, this proposed rule is within the categorical exclusions in § 51.22(c)(1) and therefore neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act Statement

This proposed rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0032.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternative considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from John C. Stewart, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–3618.

The NRC requests comment on the draft regulatory analysis. Comments on the draft analysis may be submitted as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule clarifies jurisdiction for disposal of radioactive waste at nuclear reactors and Part 70 facilities operating under licenses issued pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974. Generally, the operators of nuclear reactors and Part 70 facilities do not fall within the definition of a small business adopted by the NRC (50 FR 50241; December 9, 1985). Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 150

Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

1. The authority citation for Part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073), Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152), Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 150.20(b)(2)–(4) and 150.21 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16–150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 150.15 is amended by adding paragraphs (a) (8) and (9) to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(8) The disposal, within the protected and exclusion areas of a nuclear reactor licensed by the Commission, of radioactive wastes generated at the reactor site. The terms protected areas and exclusion areas have the same meanings as defined in § 73.2(g) and § 100.3(a), respectively.

(9) The disposal, within restricted areas and contiguous property established for activities carried out under licenses issued pursuant to Part 70 of this chapter, of special nuclear material waste generated at the licensee's facility. The term restricted areas has the same meaning as defined in § 20.3(a)(14).

* * * * *

Dated at Rockville, Maryland, this 16th day of August, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88–18965 Filed 8–19–88; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 38, 292, 293 and 382

[Docket Nos. RM88–4–000, RM88–5–000 and RM88–6–000]

Regulations Governing Independent Power Producers and Bidding Programs; Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities, and Interconnection Facilities

Issued August 10, 1988

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule; order granting requests for extension of time and denying other related requests.

SUMMARY: On March 16, 1988, the Federal Energy Regulatory Commission (Commission) issued three notices of proposed rulemaking in Docket Nos. RM88–4–000, "Regulations Governing Independent Power Producers" (53 FR 9327 (March 22, 1988)), RM88–5–000, "Regulations Governing Bidding Programs" (53 FR 9324 (March 22, 1988)) and RM88–6–000 "Administrative Determination of Full Avoided Costs, Sales of Power To Qualifying Facilities, and Interconnection Facilities" (53 FR 9331 (March 22, 1988)).

In this order, the Commission is extending the time for filing reply comments in Docket Nos. RM88–4–000, RM88–5–000, and RM88–6–000 (including reply comments on the *Orange & Rockland Utilities, Inc.* issue) to September 14, 1988. Related requests to remove the page limitation established for reply comments in these dockets and to provide opportunity for oral presentations of comments on the Draft Environmental Impact Statement (DEIS) are denied. The dates for filing responses to the Commission's questions raised at the public hearing and for filing written comments on the DEIS are also extended to September 14, 1988.

DATES: The date of this order is August 10, 1988.

Reply comments should be filed on or before September 14, 1988.

Responses to the Commission's questions raised at the public hearing and written comments on the DEIS should be filed on or before September 14, 1988.

ADDRESS: All filings should refer to Docket Nos. RM88–4–000, RM88–5–000 and RM88–6–000, and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Gilda Rodriguez, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, (202) 357–9155.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dailing (202) 357–8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order granting extension of time will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Order Granting Requests for Extension of Time and Denying Other Related Requests

Issued August 10, 1988

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon and Charles A. Trabandt.

In response to certain requests for extension of time in these proceedings,[1]

[1] Request of Maine Public Utilities Commission for Extension of Deadline for Filing Supplemental Comments, filed July 18, 1988; Request for Extension of Time to Submit Written Comments on the Draft Environmental Impact Statement and for Opportunity to make an Oral Presentation, on behalf of the Operating Companies of the American Electric Power System, filed July 29, 1988; and Joint Motion of American Public Power Association, Edison Electric Institute, National Rural Electric Cooperative Association, National Association of Regulatory Utility Commissioners and the Consumer Owned Systems for Enlargement of Time and Removal of Page Limitation, filed August 2, 1988.

the following procedural schedule is established:

The date for filing reply comments in Docket Nos. RM88–4–000, RM88–5–000 and RM88–6–000 is extended to September 14, 1988.

The date for filing replies to the supplemental comments (*i.e.*, reply comments on the *Orange and Rockland, Inc.*, issue) in Docket No. RM88–6–000 is extended to September 14, 1988.

The date for filing responses to Commission questions raised at the public hearing in these dockets is extended to September 14, 1988.

The date for filing written comments on the Draft Environmental Impact Statement (DEIS) issued in Docket Nos. RM88–4–000 and RM88–5–000 is extended to September 14, 1988.

Related requests to remove the page limitation established for reply comments in these dockets and to provide opportunity for oral presentation of comments on the DEIS are denied.

The Commission orders:

The procedural schedule in these proceedings is altered as described above. The related requests described above are denied.

By the Commission. Commissioner Trabandt concurred with a separate statement attached.

Lois D. Cashell,

Acting Secretary.

Issued August 10, 1988.

Concurring Opinion of Commissioner Charles A. Trabandt

I concur in this order with two reservations.

First, I would grant the request of the Operating Companies of the American Electric Power System filed July 29, 1988, for an opportunity to make an oral presentation on the Draft Environmental Impact Statement. As discussed in my concurring opinion on the Notices of Proposed Rulemaking (NOPR) in these dockets, the Commission has failed in several important respects to satisfy the letter, let along the spirit, of the National Environmental Policy Act in its consideration of these NOPRs. That point was reiterated in many of the initial public comments filed in these dockets. The Commission, therefore, would be well advised to seek to recover from those failings by providing a full and complete opportunity for public participation in the NEPA process at this stage of the proceedings. Once again, however, the Commission has adopted the unfortunate posture of attempting to "muddle through" its NEPA responsibilities by foreclosing such opportunity for additional public participation. That attempt ultimately will be doomed to failure on procedural grounds, in my judgment.

Second, I would grant the Joint Motion filed August 2, 1988, for Removal of Page Limitation. The 15 page limitation for reply briefs was absurd on its face when first issued in the context of the three NOPRs totaling several hundred pages. It was consistent then with the many procedural flaws on public comment and participation I noted in my concurring opinion. Now, with literally fifteen thousand pages of original comments filed, the page limitation has become utterly ridiculous and quite embarrassing for the Commission. Perhaps, as a practical matter, appendices to the comments, or separate discussion in response to the Commissioners' questions at the public conference, can serve to provide sufficient pages for related argumentation. Nevertheless, the Commission should not force the practicing bar to adopt such tactics to avoid the page limitation.

More fundamentally, the Commission has proposed in its several hundred pages NOPRs a fundamental restructuring of the electric utility industry with sweeping Federal pre-emptive effect in great detail, and that proposal has elicited literally thousands of pages or original comment. Thus, the 15 page limitation at this point will not allow development of a full record, will discourage parties from filing joint comments and will only serve to delay presentation of the arguments to the rehearing stage. Surely, common sense and any notion of due process would dictate removal of the page limitation for thoroughly prepared and argued reply comments. In any event, one would suspect that the Commission sooner or later at least is going to have to pretend that it is interested in the views of others on these NOPRs, whatever the facts really are. Removal of the page limitation might just have given such an impression, but, as they say in Peoria, the institutional body language of our denial here will be all bad—again.

I support granting the requests for extension of time in this order, but concur because of the two reservations.

Charles A. Trabandt,

Commissioner.

[FR Doc. 88–19000 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 37

[Docket No. RM88–25–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

August 5, 1988.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is instituting a fifth annual proceeding concerning generic determination of the rate of return on common equity for public utilities. The Commission has established a discounted cash flow (DCF) formula to determine the average cost of common equity for the jurisdictional operations of public utilities and a quarterly indexing procedure to calculate benchmark rates of return. In this proceeding, the Commission proposes to determine the growth rate and flotation cost adjustment factors to be used in the quarterly indexing procedure during the year beginning February 1, 1989. The Commission proposes that these benchmark rates of return remain advisory, as were those resulting from the previous four annual proceedings.

DATE: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by October 6, 1988.

ADDRESS: All filings should refer to Docket No. RM88–25–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Robert E. Gian, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357–8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a

modem by dialing (202) 357–8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) institutes a fifth annual proceeding concerning generic determination of the rate of return on common equity for public utilities.[1] The Commission has established a discounted cash flow (DCF) formula to determine the average cost of common equity for the jurisdictional operations of public utilities and a quarterly indexing procedure to calculate benchmark rates of return.[2] In this proceeding, the Commission proposes to determine the growth rate [3] and flotation cost adjustment [4] factors to be used in the quarterly indexing procedure during the year beginning February 1, 1989. The Commission proposes that these benchmark rates of return remain advisory, as were those resulting from the previous four annual proceedings.[5]

[1] The annual proceedings were established by Order No. 389, Generic Determination of Rate of Return on Common Equity for Electric Utilities, 49 FR 29946 (July 25, 1984), FERC Stats. and Regs., Regulations Preambles 1982–1985, ¶ 30,582 (July 18, 1984) and Order No. 389–A, 49 FR 46351 (November 26, 1984) (order denying rehearing).

[2] *See* Order No. 489, Generic Determination of Rate of Return on Common Equity for Public Utilities, 53 FR 3342 (February 5, 1988), III FERC Stats. & Regs. ¶ 30,795 (January 29, 1988). This was the fourth annual proceeding and in it the Commission readopted the DCF formula it had used in the first three annual proceedings.

[3] The growth rate is the expected annual rate of growth of dividends on common stock. The growth rate for the electric utility industry is a factor in the constant growth rate DCF model that the Commission adopted in Order No. 420 to determine the average cost of common equity and to calculate the quarterly benchmark rate of return for public utilities.

[4] Flotation costs include underwriters' compensation and legal and printing fees incurred by utilities when they sell new shares of their common stock. An adjustment for flotation costs is another factor in the formula for calculating the benchmark rate of return.

[5] The first annual proceeding resulted in Order No. 420, 50 FR 21802 (May 29, 1985), FERC Stats. and Regs., Regulations Preambles 1982–1985 ¶ 30,644 (May 20, 1985) and Order No. 420-A, 50 FR 34086 (August 23, 1985) (order denying rehearing). The second annual proceeding resulted in Order No. 442, 51 FR 343 (January 6, 1986), III FERC Stats. & Regs. ¶ 30677 (December 26, 1985) and Order No. 442–A, 51 FR 22505 (June 20, 1986), III FERC Stats. & Regs. ¶ 30,702 (June 11, 1986) (order on rehearing). The third annual proceeding resulted in Order No. 461, 52 FR 11 (January 2, 1987), III FERC Stats. & Regs. ¶ 30,722 (December 24, 1986), and Order No. 461–A, 52 FR 5757 (February 26, 1987) (order denying rehearing).

II. Background

Section 205(a) of the Federal Power Act (FPA) requires that all electric rates subject to the jurisdiction of the Commission be "just and reasonable." [6] In the exercise of this statutory responsibility, the Commission seeks to set rates of return on common equity that are fair to both utility ratepayers and utility stockholders. The allowed rate of return is now determined individually for each utility on a case-by-case basis. In July 1984, the Commission adopted procedures for the generic determination of a benchmark rate of return on common equity and for its application in individual cases.[7] The Commission has conducted four prior annual proceedings to determine the average cost of common equity for the jurisdictional operations of public utilities and has made those rates advisory. In that advisory status, benchmark rates are intended to provided guidance to parties in rate proceedings and to serve as a reference point for the Commission in setting allowed rates of return.

III. Discussion

The Commission has established a discounted cash flow methodology for estimating the rate of return on common equity. Specifically, that formula is:

$$k=(1 + .5g)\, y + g$$

where:

k = market required rate of return
y = current dividend yield (current annual dividend rate divided by current market price)
g = expected annual dividend growth rate
(1 + .5g) = dividend adjustment factor for quarterly dividend payments

The dividend yield used in this DCF formula is the median of the dividend yields of those companies that remain in a sample of utilities after application of certain screening criteria. The Commission begins with a group of approximately 100 publicly traded electric utilities or combination companies that meet the following standards:

(1) The utility is predominantly electric;

(2) The stock of the utility is traded on either the New York or American Stock Exchange;

(3) The utility is included in the Utility Compustat II data base; and

(4) The utility is not excluded by the Commission based on a case-by-case determination that its data is unavailable or inappropriate.

The Commission excludes companies from the sample if:

(1) The company's common stock is no longer publicly traded due to merger or other action;

(2) The company has decreased or omitted a common dividend payment in the current or prior three quarters; or

(3) The Commission determines on a case-by-case basis that some other occurrence has caused the dividend yield for that company to be substantially misleading and to bias the resulting quarterly average.

The quarterly dividend yield for each company is computed by dividing the dividend rate by the price. The dividend rate is the "indicated dividend rate," which is the last declared quarterly dividend multiplied by four. The price used in calculating the quarterly dividend yield is the simple average of the three monthly high and low prices for the quarter. The dividend yield used in the quarterly indexing procedure is the average of the two most recent quarterly median yields.

As required by § 37.4 of the Commission's regulations, the Commission is proposing to establish the growth rate and flotation cost adjustment to be used in the quarterly indexing procedure for the year beginning February 1, 1989.

A. Growth Rate

To estimate the expected annual dividend growth rate, the Commission proposes to rely primarily on a fundamental analysis approach and a two-stage growth model, as it did in the most recent annual proceeding.[8] In the fundamental analysis approach, the two underlying components of expected annual dividend growth, growth from retention of earnings and growth from sales of new common stock, are evaluated. Growth from retention of earnings, or internal growth, is a function of expected return on common equity (r) and the expected retention ratio (b). Growth from sales of new common stock, or external growth, is a function of the amount of stock expected to be sold (s) and the expected price of those sales relative to book value (v). The formula for estimating the growth rate based on this fundamental analysis is g = br + sv. The two-stage growth

[6] 16 U.S.C. 824d (1982).

[7] *See* Order No. 389, 49 FR 29946.

[8] *See* Order No. 489, 53 FR at 3350.

analysis involves separate evaluation of near-term and long-term growth expectations.

The Commission also proposes to consider other data and methods for estimating the expected growth rate, butr primarily as a check on the reasonableness of its growth rate determination based on the fundamental and two-stage growth analyses.

B. Flotation Cost Adjustment

Flotation costs are incurred by utilities when they sell new shares of their common stock and include issuance costs, such as underwriters' compensation and legal and printing fees. Although relatively small, flotation costs are not accounted for elsewhere in a company's cost of service and are therefore included in the calculation of the cost of common equity.

The Commission proposes to continue its existing policy on flotation costs by calculating an industry average adjustment to the required rate of return to compensate utilities for issuance costs only.[9] The Commission proposes to estimate the adjustment to the required rate of return for flotation costs using the following formula:

$$k^* = \frac{fs}{(1+s)}$$

where:

K^* = Flotation cost adjustment to required rate of return

f = industry average flotation cost as a percentage of offering price

s = proportion of new common equity expected to be issued annually to total common equity

This formula determines an increment to the cost of common equity which reflects the average annualized amount of flotation costs incurred by the utility industry.

IV. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information concerning the proposals in this Notice. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 and should refer to Docket No. RM88–25–000. An original and fourteen copies should be filed with the Commission on or before October 6, 1988.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room, Room 1000, 825 North Capitol Street, NE., Washington, DC, during regular business hours.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [10] requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. Nearly all of the jurisdictional utilities which would be affected by the proposed rule are too large to be considered "small entities" within the meaning of the Act.[11] Accordingly, the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for a Commission action that may have a significant effect on the human environment.[12] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[13] The Commission has found that matters affecting rates for the purchase or sale of electricity are not major federal actions that have a significant environmental impact.[14] The generic rate of return is a factor to be considered in the determination of electric rates. Thus, no environmental assessment or environmental impact statement is necessary for the requirements of this Notice of Proposed Rulemaking.

VII. Paperwork Reduction Act

The Paperwork Reduction Act [15] and the Office of Management and Budget's (OMB) regulations [16] require that the OMB approve certain information collection requirements imposed by agency rule. The proposed rule in this proceeding does not impose any information collection requirements. Therefore, the Commission is not submitting this rule to the OMB for review or approval.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–19001 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Parts 284 and 385

[Docket No. RM88–13–000]

Brokering of Interstate Natural Gas Pipeline Capacity

Issued: August 15, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of time.

SUMMARY: On April 4, 1988, the Commission issued a proposed rule to allow holders of firm transportation rights on an interstate natural gas pipeline to sell or assign those rights. (53 FR 15061, April 27, 1988). On August 15, 1988, an extension of time was granted at the request of various interested groups for the filing of supplemental comments on the proposed rule.

DATES: The time for filing supplemental comments is extended from September 2, 1988 to September 16, 1988.

ADDRESS: Office of the Secretary, 825 North Capitol Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Lois D. Cashell, Acting Secretary, (202) 357–8400.

SUPPLEMENTARY INFORMATION:

Extension of Time

On August 5, 1988, Associated Gas Distributors, American Gas Association, Interstate Natural Gas Association of America, and United Distribution Companies (Parties) filed a motion for

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[9] The Commission adopted this flotation cost policy in Order No. 420 and reaffirmed it in Order Nos. 442, 461, and 489.

[10] 5 U.S.C. 601–612 (1982).

[11] The Act defines a "small entity" as a small business, a small not-for-profit enterprise or a small governmental jurisdiction. 5 U.S.C. 601(b) (1982). A "small business" is defined by reference to section 3 of the Small Business Act, as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 15 U.S.C. 6.32(a) (1982).

[12] Order No. 486, Regulations Implementing National Environmental Policy Act, 52 F.R. 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987), codified at 18 CFR Part 380.

[13] *Id.*, codified at § 380.4.

[14] *Id.*, codified at § 380.4(a)(15).

[15] 44 U.S.C. 3301–3520 (1982).

[16] 5 CFR 1320.13 (1987).

an extension of time for the filing of supplemental comments in response to the Commission's Notice issued July 1, 1988, in the above-docketed proceeding. The motion states that due to the complexity of the issues raised in this proceeding, more time is needed within which to analyze these issues and to coordinate the filing of supplemental comments.

Upon consideration, notice is hereby given that an extension of time for the filing of supplemental comments is granted to and including September 16, 1988.

Lois D. Cashell,

Acting Secretary.

Statement of Commissioner Charles A. Trabandt Regarding Notice of Extension of Time

Issued: August 16, 1988.

I am pleased that the Commission has granted the consensus request from several segments of the natural gas industry for an extension of time to file supplemental comments on the Notice Of Proposed Rule (NOPR) in this docket. I attended the morning session of the staff technical conference held on July 28, 1988, and I was struck by the obvious conceptual and skeletal nature of the discussion, very much similar to that of a Notice of Inquiry Conference, rather than a so-called technical conference on a four-month old NOPR. (Also, please see my separate opinion in *CNG Transmission Corporation*, Docket No. RP88-217-000, *et al.*, for other observations about third party capacity allocation).

It is abundantly clear now that the primary focus throughout the industry still is on the fundamental issue of *what* specifically might be brokered and not *how* and *when* it should be brokered. It also is clear now that the "right" to be brokered, be it called a firm transportation right or a capacity right, or anything else, probably will be a direct function of definition to be accomplished in pending and future cases addressing the conversion of firm sales to firm transportation service under the Order No. 436 and Order No. 500 series of rules. Under those circumstances, as the representative for the Independent Petroleum Association of America aptly noted, it is virtually impossible to know how capacity brokering will work and potentially affect the interests of any interested party; that is, unless and until there is a much more specific definition of what, in fact, is going to be brokered on individual pipelines and the impact of such proposed brokering can be assessed more concretely.

Also, the most recent quarterly report on transportation carriage by INGAA documents that in the first quarter of 1988, the vast majority of nationwide transportation of natural gas was under NGPA section 311 authority (77% vs. 13% under NGA Section 7 and 8% under Order No. 436 blanket certificates) in the form of interruptible services (89% vs. 11% firm transport). Consequently, the Commission and the industry must proceed with caution in fashioning a more definitive proposal for capacity brokering before any form of generic program is implemented. I, therefore, reiterate again my recommendation to all interested parties that the Commission should analyze carefully the public comments in this docket and then re-notice in a new NOPR a much more specific and well-reasoned proposal for any generic form of "capacity" or other transportation right brokering on a nationwide basis. That is, if a majority remains persuaded to proceed at this time with any form of generic capacity brokering, as distinguished from third party capacity re-allocation and an experiment.

In the meantime, the Commission must allow the third party re-allocation of unused transportation services/capacity, as I called for in my separate opinion in the *CNG* case, and as did many participants in the staff technical conference. Finally, there may be merit in some form of capacity brokering experiment on one or two pipelines, as discussed at the July 27 Commission meeting. Nevertheless, third party re-allocation should commence immediately—and not be held hostage to the experiment and an eventual rule—and there must be a new NOPR to re-notice capacity brokering on any proposed generic basis before any consideration of a final rule in this docket for nationwide implementation of the capacity brokering concept.

I look forward with great interest to the supplemental comments to be filed in mid-September, with the additional time providing a more reasonable opportunity for analysis and comment regarding the NOPR, in the aftermath of/fallout from the technical conference. It appears to me, at least, that the Commission's direction is much clearer now and should become more apparent on the face of the forthcoming comments.

Charles A. Trabandt,

Commissioner.

[FR Doc. 88-18933 Filed 8-19-88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Treatment of Old-Age, Survivors, and Disability Insurance Payments in the Aid to Families with Dependent Children Program (AFDC)—Direct Payment to Beneficiaries Under Age 18

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to revise 20 CFR 404.2040 which prescribes the use of benefit payments by a representative payee. The proposed regulation covers our existing policy on the treatment of all title II benefits (retroactive lump sum and monthly) when paid to a representative payee on behalf of a beneficiary who is a member of an Aid to Families with Dependent Children AFDC) assistance unit. We propose to clarify existing policy to state that we do not consider it inappropriate for a representative payee to make the benefit payments available to the AFDC assistance unit.

DATE: Your comments will be considered if we receive them no later than October 21, 1988.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21235, or delivered to 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7452.

SUPPLEMENTARY INFORMATION: The purpose of the proposed regulation is to provide a needed clarification of our policy concerning the treatment of all title II benefits (retroactive lump-sum and monthly) when paid to a representative payee on behalf of a beneficiary who is a member of an AFDC assistance unit by stating that we do not consider it inappropriate for a representative payee to make the benefit payments available to the AFDC assistance unit.

Section 402(a)(17) of the Social Security Act (the Act), which was amended by section 2304 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), provides that when a person in an AFDC assistance unit receives an amount of income that, together with other countable income in the month of receipt not excluded under section 402(a)(8) of the Act, exceeds the State's standard of need, the assistance unit is ineligible for AFDC for a prescribed period of time. This period (in months) is determined by dividing the total of the lump-sum and other countable income received in the month by the State's monthly needs standard applicable to the family unit. The Senate Committee on the Budget, in addressing this provision, specifically identified retroactive Social Security benefits as the kind of lump-sum payments that should be considered available to meet the ongoing needs of an AFDC family (Senate Rep. No. 97–139, 97th Cong., 1st Sess. (1931) at p. 504, printed in (1981) U.S. Code Cong. and Admin. News 771).

Section 402(a)(38) of the Act, as amended by section 2640 of the Deficit Reduction Act of 1984 (Pub. L. 98–369), generally requires that parents and brothers and sisters of a dependent child who are living in the same household as the dependent child and who meet the age and deprivation requirements must also be included in the assistance unit. Thus, it is no longer possible, as under prior law, for a caretaker relative to exclude a potentially eligible child who is, or will be receiving other income (e.g., title II benefits) from the AFDC assistance unit.

AFDC interim final regulations published on September 10, 1984, at 49 FR 35586 provide that income and resources of all the individuals required to be included in the assistance unit must be considered in determining eligibility and payment for the assistance unit. In this connection, the statute specifically provides for the inclusion of title II benefits, notwithstanding the authority for payment of such benefits to representative payees which is found in section 205(j). Under the AFDC policy, when title II benefits are paid to a representative payee on behalf of a member of the assistance unit and the payee lives in the same household as the assistance unit, the title II benefits must be counted as income. When the representative payee does not live in the household, the title II benefits are included only to the extent that the payee makes them available for the support of the beneficiary. This is consistent with our permitting the benefits to be used for other members of the unit.

Because of the above changes in the Act, we are proposing to revise 20 CFR 404.2040, which prescribes the use of benefit payments by a representative payee, by adding a paragraph to this section that covers our policy concerning the treatment of all title II benefits (retroactive lump-sum and monthly) when paid to a representative payee on behalf of an AFDC recipient. We propose to clarify existing policy by stating that we do not consider it inappropriate for a representative payee to make the benefit payments available to the AFDC assistance unit.

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it will result in negligible administrative costs or savings. It has no affect on the amount of benefit payments or existing operating procedures under the Old-Age, Survivors and Disability Insurance program. The provision for direct payment to beneficiaries under age 18 will have no cost impact. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because these rules only affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These proposed regulations impose no additional reporting/recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; 13.804 Social Security—Survivors Insurance; 13.807 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors, Disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: April 15, 1988.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: June 28, 1988.

Otis R. Bowen,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Subpart U of Part 404 and Subpart F of Part 416 of 20 CFR Chapter III are proposed to be amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

1. The authority citation for Subpart U continues to read as follows:

Authority: Secs. 205 (a), (j), and (k), and 1102 of the Social Security Act; 42 U.S.C. 405 (a), (j), (k), and 1302.

§ 404.2010 [Amended]

2. Section 404.2010 is amended by changing "4" to "7" in paragraph (b)(6).

3. Paragraph (a) of § 404.2040 is revised to read as follows:

§ 404.2040 Use of benefit payments.

(a) *Current maintenance.* (1) We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes cost incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example: An aged beneficiary is entitled to a monthly Social Security benefit of $400. Her son, who is her payee, disburses her benefits in the following manner:

Rent and utilities	$200
Medical	25
Food	60
Clothing (coat)	55
Savings	30
Miscellaneous	30

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, if a beneficiary is a member of an Aid to Families With Dependent Children (AFDC) assistance unit, we do not consider it inappropriate for a representative payee to make the benefit payments available to the AFDC assistance unit.

* * * * *

4. Section 404.2045 is amended by striking the first sentence of paragraph (a) and replacing it by the following:

§ 404.2045 Conservation and investment of benefit payments.

(a) *General.* After the representative payee has used benefit payments consistent with the guidelines in this subpart (see § 404.2040 regarding use of benefits), any remaining amount shall be conserved or invested on behalf of the beneficiary.* * *

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for Subpart F continues to read as follows:

Authority: Secs. 1102 and 1631(a)(2) and (d)(1) of the Social Security Act; 42 U.S.C. 1302 and 1383 (a)(2) and (d)(1).

§ 416.610 [Amended]

2. Section 416.610 is amended by changing "4" to "7" in paragraph (b)(3).

[FR Doc. 88-18930 Filed 8-19-88; 8:45 am]
BILLING CODE 4190-11-M

Health Care Financing Administration

42 CFR Parts 405 and 413

[BERC-429-P]

Medicare Program; Changes Concerning Suspension of Medicare Payments, Interest Rates Charged on Overpayments and Underpayments, and Determinations of Allowable Interest Expense

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes changes to the Medicare regulations to provide for the following:

- Elimination of the requirement that, in cases of overpayments to health care providers and suppliers, the contractor must make a determination before the payment can be suspended that a suspension of payment is needed to protect the program against financial loss. In addition, we would clarify that suspended funds are used to repay overpayments and the remaining balance, if any, would be returned to the health care provider or supplier.
- Assessment of the higher of the private consumer rate or the current value of funds rate of interest on overpayments and underpayments to providers and suppliers.
- Modification of the requirement that investment income of providers from gifts and grants, if commingled, be offset against otherwise allowable interest expense to permit the pooling of such funds for investment purposes.
- Extension of the list of exceptions to the interest expense reduction provision to include investment income from deferred compensation plans and self-insurance funds.

This proposed rule is intended to conform the regulations with law and established policy, to provide necessary clarification, and to protect the Government's interest.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on October 21, 1988.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-429-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

In commenting, please refer to file code BERC-429-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT:

Don Novitski (Suspension of Payments), (301) 966-7496

Paul Krieger (Interest Rates on Overpayments), (301) 966-7518

Ward Pleines (All Other Provisions), (301) 966-4528

SUPPLEMENTARY INFORMATION:

I. Suspension of Medicare Payments

A. Background

Regulations at 42 CFR 405.370 provide that payments authorized to be made to providers and suppliers of health care services and supplies under the Medicare program may be suspended, in whole or in part, by an intermediary or a carrier, when it has been determined that the provider or supplier has been overpaid, and reliable evidence shows that an overpayment exists or that the payments to be made may not be correct. Section 405.370 does not specify the disposition of suspended payments.

Sections 1815 (a) and (d) and 1833(j) of the Social Security Act (the Act), the Federal Claims Collection Act of 1966, as amended, (31 U.S.C. 3711), and 42 CFR 401.607 (a)(2) and (d) and 405.1803(c) allow contractors that have the opportunity to offset an overpayment to do so. However, regulations at § 405.370(b) provide that in order to proceed with a suspension of payment in overpayment situation, the contractor must have determined that "the suspension of the payments, in whole or in part, is needed to protect the program against financial loss."

B. Proposed Changes

We are proposing to eliminate the requirement that, prior to suspension of payments, the intermediary or carrier make a determination that suspension of payments to providers or suppliers is needed to protect the program against financial loss.

It is apparent that, when an overpayment has been identified, the program is already losing interest on the funds overpaid. We believe that it is not necessary to make a separate determination that suspension is needed to protect the program from financial loss. It can be assumed that there is financial loss when the contractor has complied with recovery procedures in § 405.371 and § 405.372 and the provider or supplier has not voluntarily refunded the overpayment.

In addition, requiring contractors to make a determination on every overpayment causes additional administrative costs and delays the recovery process further. Accordingly, we are proposing to eliminate the requirement, located in § 405.370(b), that "the intermediary or carrier has determined that the suspension of payments, in whole or in part, is needed to protect the program against financial loss." In addition, as part of the proposal, we would correct cross-references in § 405.370(a).

We believe that this policy is in accordance with the provisions of the Federal Claims Collection Standards (4 CFR Parts 101–105). Section 102.1 states that each Federal agency is to take aggressive action, on a timely basis, to collect overpayments. Section 102.3 requires collection by offset and does not require a determination that offset is needed to protect the program against financial loss.

We are also proposing to clarify HCFA's policy regarding the disposition of suspended payments. Suspended funds would first be applied to liquidate, in whole or in part, overpayments that are the basis for the suspension. Any remaining suspended funds would be applied to any other determined Medicare overpayments. In the absence of a further obligation to the Department of Health and Human Services or other legal requirement (such as an IRS levy), the excess would be refunded to the provider or supplier. In this regard, the overpayment would include any interest assessed under § 405.376 or other applicable provision.

II. Interest Rates Charged on Overpayments and Underpayments

A. Background

Section 117 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), which added sections 1815(d) and 1833(j) to the Act, gave the Secretary the authority to assess interest charges on delinquent Medicare overpayments or underpayments. These provisions of the law require that once a final determination is made that a provider or supplier of services has received an overpayment or underpayment from Medicare and payment of the excess or deficit is not made within 30 days of the date of the final determination, interest charges will be applied to the balance due to or from the provider or supplier. These sections provide, in part "* * * interest shall accrue on the balance of such excess or deficit * * * at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments." Prior to the passage of Pub. L. 97–248, HCFA had relied on common law authority to charge interest on these overpayments.

The regulations implementing these provisions were published in the Federal Register on December 6, 1982 (47 FR 54814) and are set forth at § 405.376. Section 405.376 specifies the rules for assessing and paying interest on Medicare overpayments and underpayments. Section 405.376(d) states that the interest rate on overpayments and underpayments is the prevailing interest rate specified in Treasury bulletins issued under section 8020.20 of the Treasury Fiscal Requirements Manual (now section 8025.40 of the Treasury Financial Manual). We adopted this rate, known as the current value of funds (CVF) rate, in the December 6, 1982 final rule because at that time, it was the only rate falling within the statutory language.

Since we implemented the provisions of § 405.376, the CVF rate has consistently been lower than the prime rate or any other commercial lending rate. As a result, HCFA has been at a disadvantage since there has been less incentive for overpaid providers and suppliers to repay promptly any overpayments due HCFA. Since most providers and suppliers have to borrow funds at the market rate or higher, there is little incentive under our current regulations to refund any Medicare overpayment since they can retain program funds at the much lower CVF rate of interest. The result is that the Medicare program provides a below-market rate loan to these providers and suppliers.

Also, the CVF rate changes only when the annual average investment rate of the Treasury loan account fluctuates by more than two percent. This reduces responsiveness to the market place. For example, since October 1983, HCFA has not been able to charge more than nine percent per annum on outstanding overpayments. The nine percent rate remained in effect through December 1985. For the calendar years 1986, 1987, and 1988, the CVF rate was eight, seven, and six percent, respectively.

Subsequent to the passage of the Debt Collection Act of 1982 (Pub. L. 97–365), the Federal Claims Collection Standards were modified to provide for rates of interest in addition to the CVF rate. (See 4 CFR 102.13(c).) The Secretary of the Treasury has revised his regulations, setting forth a higher rate, that is, the private consumer rate (PCR), which may be revised quarterly. Furthermore, section 8025.40 of the Treasury Financial Manual permits a higher rate of interest to be assessed if it is determined that a higher rate is necessary to protect the Government's interest.

The Departmental Federal Claims Collection regulations (45 CFR 30.13), published January 5, 1987 (52 FR 260), allow HCFA to assess the higher private consumer rate (PRC) of interest on delinquent overpayments in contexts outside the scope of § 405.376. The Departmental regulations have adopted the PCR for application to many types of debts owed to the Department. As of December 31, 1987, the PCR was 14.625 percent. This is more than double what is charged under the existing regulations for overpayments due the Medicare program.

B. Proposed Changes

We are proposing to amend § 405.376(d) to allow a higher interest rate on overpayments and underpayments to providers and suppliers under the Medicare program. The proposed change would permit us to assess the higher of the rate as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date of final determination or the CVF rate. Because we believe that the PCR is a rate determined in accordance with the regulations of the Secretary of the Treasury, the use of the PCR as an alternative interest rate satisfies the statutory requirements of sections 1815(d) and 1833(j) of the Act. It would also create uniformity with the Departmental interest assessment regulation at 45 CFR 30.13.

Assessing interest at the higher of these two rates should reduce the time providers and suppliers are taking to repay overpayments. It should also decrease the number of repayment schedules and the number of delinquent cost reports by eliminating the financial advantage the providers and suppliers enjoy by not paying promptly.

We are also proposing to revise the regulations to indicate the change in the citation of 8020.20 of the Treasury Fiscal Requirements Manual to 8025.40 of the Treasury Financial Manual.

III. Determination of Allowable Interest Expense

A. Background

Under the Medicare program, health care providers not subject to the prospective payment system are reimbursed generally for the reasonable costs of the covered items and services they furnish to Medicare beneficiaries. Section 1861(v)(1)(A) of the Act defines reasonable cost as the cost actually incurred, excluding any cost unnecessary in the efficient delivery of needed health services. Section 1861(v)(1)(A) of the Act also provides that reasonable costs be determined in accordance with regulations that establish the methods to be used and the items to be included for purposes of determining which costs are allowable for various types or classes of institutions, agencies, and services.

Providers may generally include interest expense (the cost incurred for the use of funds borrowed for patient

care-related purposes) in allowable costs, but, under § 413.153(b)(2)(iii), allowable interest expense must be reduced by investment income. Moreover, this section of the regulations provides that investment income from gifts and grants (whether restricted or unrestricted) is not used to reduce interest expense if the gift and grant funds are held separate and not commingled with other funds. This prohibition against the commingling of funds was intended to ensure that providers maintain the discrete nature of the grant funds and to facilitate the proper reimbursement treatment of the resulting investment income by intermediaries.

Section 1134 of the Act, which was added by section 901 of the Omnibus Budget Reconciliation Act of 1980 (Pub. L. 96–499), precludes the offset against interest expense of investment income of nonprofit hospitals from grants, gifts, or endowments not designated by the donor to defray specific operating costs. This prohibition effectively permits the pooling or combining of funds from various sources for investment purposes of nonprofit hospitals.

The provisions of section 901 of Pub. L. 96–499, as well as our established position on commingling of funds, were incorporated in Transmittal No. 279, published in January 1983, which revised section 202.6 of the Provider Reimbursement Manual (HCFA Pub. 15–1) to permit the pooling of funds for investment purposes provided adequate records are maintained to enable the proper identification of funds and investment income applicable to each.

In addition to investment income from separately held and noncommingled gifts and grants, § 413.153(b)(2)(iii) currently excludes investment income from a provider's funded depreciation, qualified employee pension funds, and interest received as a result of judicial review by a Federal court from the interest expense offset requirement. Under our current operating policy, investment income from a provider's deferred compensation funds and self-insurance funds that meet the program's qualifying criteria are implicitly excluded from interest expense offset. The qualifying criteria for deferred compensation plans provided in section 2140 of HCFA Pub. 15–1 and the qualifying criteria for self-insurance funds described in subsection 2162.7 of HCFA Pub. 15–1 require that investment income earned on a deferred compensation fund or a self-insurance fund must become part of those funds and, as such, is unavailable for offset against interest expense.

B. Proposed Changes

As stated above, section 1134 of the Act precludes the offset against interest expense of investment income from grants, gifts, or endowments not designated by the donor to defray specific operating costs of nonprofit hospitals. Thus, the pooling or combining of funds from various sources for investment purposes by nonprofit hospitals is permitted under law. We believe that this statute serves to affirm our policy position that it is permissible to pool funds for investment purposes.

In this rule, we are proposing to revise § 413.153(b)(2)(iii) to modify the restriction against commingling (that is, to permit the pooling of grant, gift, or endowment funds for investment purposes) for all providers, not only for the nonprofit hospitals referenced in section 1134 of the Act. This change would conform the regulations to our current operating policy as set forth in section 202.6 of HCFA Pub. 15–1. We rely on the general statutory authority in section 1861(v)(1)(A) of the Act, which defines reasonable cost, to make this change, because we believe that the prohibition against the commingling of grant and gift funds is not necessary to ensure that only the provider's reasonable cost is reimbursed.

As a conforming change, we are also proposing to remove the regulations text located at § 413.5(c)(3). This section contains an outdated statement concerning offsetting of restricted grants, gifts, and income from endowments and ceased being effective with cost reporting periods beginning on or after October 1, 1983.

We are proposing further clarification to § 413.153(b)(2)(iii) by adding to the exclusions from interest expense offset, investment income on—

- A provider's deferred compensation plans; and
- Self-insurance trust funds.

Because established program policy has always required that investment income earned on a provider's deferred compensation fund (HCFA Pub. 15–1, section 2140 ff.) or self-insurance fund (HCFA Pub. 15–1, section 2162.7) must become part of those funds, it is unavailable for offset against interest expense. We are simply adding these exclusions from interest expense offset to the regulations text to conform it to the established policy.

IV. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: An annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (FRA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all providers, practitioners, and suppliers as small entities.

Elimination of the requirement at § 405.370(b), that an intermediary or carrier make a prior determination that a suspension of payment is needed to protect the Medicare program against financial loss, may have an adverse economic effect on some providers and suppliers. However, we do not believe that this policy would affect a significant number of providers and suppliers. We also believe that providers and suppliers would be spared the administrative costs of making repayment to the Medicare program for overpayments.

We are proposing to amend § 413.153 only to bring it into conformity with section 1134 of the Act and with current operating policy, as set forth in HCFA manuals.

Our proposal to revise § 405.376(d) to allow the option of assessing whichever interest rate is higher on Medicare overpayments would increase program savings and have an adverse effect on providers and suppliers when the rates are first implemented. However, we expect these savings to be offset by a reduction in the number of providers and suppliers delinquent in repayments. Since there are a minimal number of underpayments that are not paid timely to the provider or supplier, we expect that payment of a higher interest rate by the Medicare program would result in little or no economic effect.

For the reasons set forth above, we have determined that a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities, and we have therefore not

prepared a regulatory flexibility analysis.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a metropolitan statistical area. We have determined, and the Secretary certifies, that this proposed regulation would not have a significant impact on the operations of a substantial number of small rural hospitals.

V. Other Required Information

A. Paperwork Burden

This proposed rule does not impose information collection requirements. Consequently, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

B. Public Comment

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the **DATES** section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV would be amended as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subchapter B—Medicare Programs

A. Part 405, Subpart C is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for Subpart C continues to read as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

Authority: Sec. 1102, 1815, 1833, 1842, 1861, 1862, 1866, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395x, 1395y, 1395cc, 1395gg, 1395hh, and 1395pp) and 31 U.S.C. 3711.

2. Section 405.370 is revised to read as follows:

§ 405.370 Suspension of payments to providers of services and other suppliers of services.

(a) Payments authorized to be made to providers and suppliers of services in accordance with Subpart A of this part or in accordance with Parts 409 and 410 of this chapter (but excluding payments to entitled individuals and payments under Subpart P of Part 405 may be suspended, in whole or in part, by an intermediary or a carrier if the intermediary or carrier—

(1) Has determined that the provider or other supplier to whom such payments are to be made has been overpaid under Medicare; or

(2) Possesses reliable evidence, although additional evidence may be needed for a determination, that such overpayment exists or that the payments to be made may not be correct.

(b) A suspension of payment is made by the intermediary or carrier only after it has complied with §§ 405.371 and 405.372, which set forth procedural requirements for suspensions.

(c) Payments suspended under the authority of this section are applied to reduce or eliminate any overpayments determined by the intermediary or carrier, including any interest assessed under the provisions of § 405.376. In the absence of a legal requirement that the excess be paid to another entity, the excess is refunded to the provider or supplier.

3. In § 405.376, paragraph (d)(1) is revised to read as follows:

§ 405.376 Interest charges on overpayments and underpayments to providers and suppliers.

* * * * *

(d) *Rate of interest.* (1) The interest rate on overpayments and underpayments is the higher of—

(i) The rate as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date of final determination as defined in paragraph (c) of this section; or

(ii) The rate specified in bulletins issued under section 8025.40 of the Treasury Financial Mutual, known as the current value of funds rate.

* * * * *

B. Part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT: PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1320a–1, 1395f(b), 1395g, 13951(a), 1395x(v), 1395hh, 1395rr, and 1395ww).

§ 413.5 [Amended]

2. In Subpart A, § 413.5, paragraph (c)(3) is removed, and the paragraph is reserved.

Subpart G—Capital Related Costs

3. In Subpart G, § 413.153 is amended by revising paragraph (b)(2) to read as follows:

§ 413.153 Interest expense.

* * * * *

(b) * * *

(2) *Necessary.* Necessary interest is interest that meets the following requirements:

(i) It is incurred on a loan made to satisfy a financial need of the provider. Loans that result in excess funds or investments would not be considered necessary.

(ii) It is incurred on a loan made for a purpose reasonably related to patient care.

(iii) It is reduced by investment income except income from—

(A) Gifts, grants, and endowments (whether held separately or pooled with other funds);

(B) Funded depreciation;

(C) The provider's qualified pension funds;

(D) the provider's deferred compensation funds that meet the program's qualifying criteria; and

(E) The provider's self-insurance trust funds that meet the program's qualifying criteria.

(iv) It is not reduced by interest received as a result of judicial review by a Federal court (as described in § 413.64(j)).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13773, Medicare-Hospital

Insurance; No. 13774, Medicare-Supplementary Medicare Insurance)

Dated: June 23, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 19, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-18994 Filed 8-19-88; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6934]

Proposed Flood Elevation Determinations; Colorado et al.

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solictited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980 which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determination, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.D. 12127.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Colorado	Jefferson County (unincorporated areas).	Bear Creek (at Idledale	Approximately 1,580 feet downstream of Shady Lane.	*6,374	*6,373
			Approximately 1,360 feet upstream of Shady Lane.	*6,429	*6,428
			Approximately 3,780 feet upstream of Shady Lane.	*6,469	*6,467
		Bear Creek (Kittredge to Evergreen).	Approximately 5,060 feet downstream of South Myers Gulch Road.	*6,756	*6,754
			Approximately 20 feet upstream of South Myers Gulch Road.	*6,818	*6,817
			Approximately 790 feet upstream of Welch Avenue.	*6,846	*6,845
			Approximately 4,280 feet downstream of State Highway 74.	*6,933	*6,929
			Approximately 30 feet downstream of the confluence with Bear Creek Tributary No. 1.	*7,003	*7,000
			Approximately 630 feet upstream of County Highway 73.	*7,051	*7,049
		Upper Bear Creek (above Evergreen Lake).	Approximately 1,420 feet downstream of Check Dam.	*7,198	*7,194
			Approximately 2,820 feet upstream of Check Dam.	*7,266	*7,263

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 2,590 feet downstream of Meadow Brook Lane (just upstream of Upper Bear Creek Road crossing).	*7,305	*7,302
			Approximately 1,910 feet upstream of Meadow Brook Lane.	*7,344	*7,341
			Approximately 5,990 feet upstream of Meadow Brook Lane.	*7,410	*7,406
		North Turkey Creek	Just downstream of Danks Drive	*7,583	*7,580
			Just upstream of Malamute Drive	*7,695	*7,692
			Approximately 2,130 feet upstream of Gray Fox Drive near Grizzly Way.	*7,761	*7,759
			Just upstream of County Highway 73 (Turkey Creek Road).	*7,915	*7,913
			Approximately 1,400 feet upstream of Shadow Mountain Drive.	*8,062	*8,060
			Approximately 5,740 feet upstream of Conifer Drive.	*8,299	*8,297
Maps are available for inspection at the Jefferson County Mapping Department, 18301 West 10th Avenue, Golden, Colorado.					
Send comments to the Honorable John Stone, Chairman, Jefferson County Board of Commissioners, 1700 Araphahoe Street, Golden, Colorado 80419.					
Georgia	City of Bainbridge, Decatur County.	Big Slough Tributory	About 1,400 feet downstream of U.S. Highway 84.	None	*105
			About 0.89 mile upstream of Twin Lakes Drive	None	*108
Maps available for inspection at the City Hall, Building Inspection Department, 1001 South Broad Street, Bainbridge, Georgia.					
Send comments to The Honorable Bill Reynolds, Mayor, City of Bainbridge, City Hall, 1001 South Broad Street, P.O. Box 158, Bainbridge, Georgia 31717.					
Missouri	City of Berkeley, St. Louis County.	Coldwater Creek	About 1,850 feet downstream of Norfolk Southern Railway.	None	*520
			About 1,350 feet upstream of Norfolk Southern Railroad.	None	*521
Maps available for inspection at the City of Berkely, Engineering Department, 6140 North Hanley Street, Berkeley, Missouri.					
Send comments to The Honorable Larry Birkla, City Manager, City of Berkeley, 6140 North Hanley Street, Berkeley, Missouri 63134.					
North Carolina	City of Durham, Durham County.	Sandy Creek	At mouth	*253	*253
			About 1,000 feet upstream of Garrett Road	*256	*258
			Just upstream of U.S. Highways 15 and 501	*267	*267
Maps available for inspection at the City Hall, Planning and Community Development, 101 City Hall Plaza, Durham, North Carolina.					
Send comments to The Honorable Wilbur P. Gulley, Mayor, City of Durham, City Hall, 101 City Hall Plaza, Durham, North Carolina 27701.					
North Carolina	Unincorporated areas of Pender County.	Atlantic Ocean/ Northeast Cape Fear River.	From the mouth of the Cape Fear River to State Route 210.	None	*8
		Atlantic Ocean/Futch Creek	Along Futch Creek from about 6,000 feet downstream of SR 1002 to about 2,500 feet upstream of SR 1571.	None	*11
		Island Creek	Just upstream of SR 1571	None	*8
			About 1.3 miles upstream of SR 1002	None	*12
Maps available for inspection at the County Administration Annex, P.O. Box 444, 300 East Fremont, Burgaw, North Carolina.					
Send comments to The Honorable Michael Lords, County Administrator, Pender County, P.O. Box 5, 300 East Fremont, Burgaw, North Carolina 28425.					
Oklahoma	Moorce, City, Cleveland County.	North Fork River	Approximately 1,050 feet downstream of NE. 12th Street.	*1,212	*1,211
			Approximately 100 feet upstream of N.E. 12th Street.	*1,221	*1,220
		Stream D	Approximately 5,116 feet upstream of SE. 19th Street.	None	*1,196
			Approximately 10 feet upstream of N.W. 3rd Street.	None	*1,239
		Tributary of Stream D	At the confluence with Stream D	None	*1,233
			At the Limit of Detail Study	None	*1,240
Maps available for inspection at the Department of Community Development, 301 North Broadway, Moore, Oklahoma.					
Send comments to The Honorable Jim Simpson, Mayor of the City of Moore, 301 North Broadway, P.O. Box 7248, Moore, Oklahoma 73153.					
Oklahoma	Rogers County unincorporated areas.	Cat Creek	Backwater for a tributary of Cat Creek 2,000 feet south of Lowry and west of Owalla Road.	*615	*611
Maps available for inspection at the Rogers County Courthouse, 219 S. Missouri, Suite 1-102, Claremore, Oklahoma.					
Send comments to Mr. Glenn Sweet, Chairman of the Rogers County Commissioners, Rogers County Courthouse, 219 S. Missouri, Claremore, Oklahoma 74017.					

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Texas	Benbrook, City, Tarrant County.	Stream 26	Downstream corporate limits	*600	*594
			Upstream corporate limits	*612	*602
Maps available for inspection with the Director of Community Development, City Hall, 911 Winscott Road, Benbrook, Texas.					
Send comments to The Honorable Jerry J. Dunn, Mayor of the City of Benbrook, City Hall, P.O. Box. 26569, Benbrook, Texas 76126					
Texas	Leon Valley, City, Bexar County.	Zarzamora Creek	Approximately 1,150 feet downstream of Bandera Road.	*804	*803
			Upstream side of Bandera Road	*811	*812
		Tributary A to Zarzamora Creek.	Downstream corporate limits	None	*814
			Upstream corporate limits	None	*817
		Drain 4, Zarzamora Creek	Confluence with Zarzamora Creek	*815	*812
			Approximately 900 feet upstream of the confluence of Zarzamora Creek.	*825	*824
Maps available for inspection at 6400 El Verde Road, San Antonio, Texas.					
Send comments to The Honorable Irene Baldridge, Mayor of the City of Leon Valley, Bexar County, 6400 El Verde Road, San Antonio, Texas 78238.					
Texas	Mesquite, City, Dallas County.	South Mesquite Creek	At Cross Road	*461	*460
			At U.S. Route 80	*469	*468
		Stream 2B8	Approximately 200 feet upstream from confluence with South Mesquite Creek.	*461	*462
			Approximately 280 feet downstream of Interstate 20 and 635.	*462	*463
Maps available for inspection at the Municipal Building, 711 N. Galloway, Mesquite, Texas.					
Send comments to The Honorable George Venner, Mayor of the City of Mesquite, Dallas County, P.O. Box 137, Mesquite, Texas 75149.					
Texas	Watauga, City, Tarrant County.	Bunker Hill Creek	Approximately 950 feet downstream of Starnes Road.	*650	*651
			Approximately 700 feet upstream of Northpark Drive.	*671	*667
Maps available for inspection at 7101 Whitley Road, Watauga, Texas.					
Send comments to The Honorable Virgil Anthony, Sr., Mayor of the City of Watauga, Tarrant County, 7101 Whitley Road, Watauga, Texas 76148.					

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: August 12, 1988.

[FR Doc. 88-18924 Filed 8-19-88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-742; FCC 88-212]

Broadcast Service; License Renewal Process and Abuses of That Process

AGENCY: Federal Communications Commission.

ACTION: Second further notice of inquiry and notice of proposed rule making.

SUMMARY: This action seeks further comment on the comparative renewal process and makes several proposals concerning elimination of possible abuses of that process. Specifically, it considers the appropriateness and legal feasibility of placing limits on the amount of consideration that may be received in return for the withdrawal of a competing application or a petition to deny that has been filed against an incumbent licensee's renewal application for a radio or television station. In addition, the Commission proposes to clarify the standards for determining when an incumbent licensee is entitled to a renewal expectancy and to refine or modify certain other comparative factors used in comparative renewal hearings.

DATES: Comments must be filed on or before October 7, 1988, and reply comments on or before November 7, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 632-7792 or Tatsu Kondo, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Inquiry and Notice of Proposed Rule Making* in BC Docket 81-742, adopted June 23, 1988, and released August 16, 1988.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC. 20037.

Summary of Second Further Notice of Inquiry and Notice of Proposed Rule Making

1. In 1981, the Commission commenced an inquiry looking towards ways of improving the comparative renewal process (published November 9, 1981, 46 FR 55279). As currently administered, this process permits individuals or entities to file competing applications against an incumbent licensee's renewal application, necessitating a comparative hearing to determine which applicant is the best qualified to operate on the frequency in question. This entails utilizing criteria similar to those used in comparative hearings for new broadcast stations and also, for equitable and policy reasons, according an incumbent licensee credit for what is termed its renewal expectancy if its past programming

service to its community of license has been "meritorious."

2. Although this proceeding was initially intended to clarify the standards used for determining when a renewal expectancy is warranted and to refine the other comparative criteria used, the Commission believes that it may be useful to expand the scope of this proceeding to attempt to curtail opportunities for abuse that may be inherent in the comparative renewal process. In particular, now that the Commission has begun a new cycle of broadcast renewal proceedings after a hiatus created by the statutory lengthening of license terms, assertions and criticism have been voiced that unscrupulous parties may be using the renewal process for private gains unrelated to any public interest aims thereunder. The Commission believes that parties may be filing competing applications or petitions to deny for the primary purpose of entering into settlement agreements for profit rather than for the purposes of operating a broadcast station or informing the Commission about legitimate issues related to an incumbent's qualifications.

3. Because curtailing abuses is integrally related, and essential, to meaningful reformation of the comparative renewal process, the Commission believes that the breadth of this proceeding should be widened to consider possible remedies to abuses that arise in the comparative renewal context. For example, the *Notice* asks commenters to consider the appropriateness and legal feasibility of placing limits on payments for the withdrawal of competing applications and petitions to deny and granting waiver requests to these limits in appropriate circumstances.

4. With respect to settlement agreements involving the withdrawal of competing applications, the Commission noted that in 1981 Congress enacted section 311(d), which permitted comparative renewal applicants to enter into settlement agreements for valuable consideration not limited to the actual expenditures of the parties in prosecuting the renewal challenge. This legislation represented a departure from the Commission's prior practice of not approving settlement agreements in comparative renewal cases, absent compelling circumstances, and only approving settlement agreements limited to the actual expenses incurred by the applicant in prosecuting the renewal challenge.

5. In light of this legislative change, the *Notice* seeks comment on the statutory and other public interest authority of the Commission to remedy settlement agreement abuses. Specifically, the Commission questions whether statutory provisions in the Communications Act of 1934, as amended, 47 U.S.C. 311(d)(3) overrode prior Commission policy generally not to approve settlement agreements in comparative renewal proceedings, and if not, whether public interest considerations warrant reinstating such prior Commission policy or otherwise circumscribing such agreements. One such approach, upon which comment is requested, would be to limit consideration that may be paid for the withdrawal of a competing application to legitimate and prudent out of pocket expenses in filing and prosecuting the application. Another approach would be to prohibit altogether settlement payments for the dismissal of a competing application.

6. In addition, since current rules simply require that the parties entering into a settlement agreement file a copy of the agreement and certify that their applications were not filed for the purpose of entering into the settlement, the *Notice* also requests comment on methods for establishing the *bona fides* of an applicant. For example, the Commission could strengthen financial and ownership disclosure requirements, or require applicants to certify at the application, rather than at the settlement stage, that the application was filed for the purpose of securing Commission authorization to operate a broadcast facility.

7. The *Notice* also discusses proposals for deterring abuses which may arise in the context of petitions to deny where consideration is paid for withdrawal of petition to deny or a promise to refrain from filing a petition to deny. The Commission does not wish to inhibit or otherwise discourage the legitimate exercise or use of the petition to deny process by members of the public. However, it seeks public comment on whether limiting payment for withdrawal of petitions to deny to legitimate and prudent expenses incurred in the preparation and filing such petitions in an appropriate method of ensuring that renewal applicants are not threatened with coercive petitions to deny filed solely to extract financial or other consideration from the licensee.

8. As a related matter, the *Notice* addresses potential abuses that arise in the context of citizens agreements entered into with licensees. Since such agreements may involve the withdrawal of a petition to deny or a promise to refrain from filing a petition, the *Notice* proposes limiting such payments to reasonable and prudent out of pocket expenses but also solicits comment on possible waiver criteria. In additon, the *Notice* requests comment on whether it is appropriate for the Commission to enforce programming obligations agreed to by broadcast licensees in citizen agreements. Although these petition to deny and citizens agreement proposals were recently made in a separate proceeding involving abuse of process, the Commission decided that, in view of the somewhat limited response in that proceeding, it would advance those proposals in this *Notice* insofar as they relate to the comparative renewal process.

9. In the area of comparative renewal criteria one main focus will be on whether or not to modify the structural criteria (particularly diversification of ownership and spectrum efficiency) used to compare challengers and incumbents. The Commission specifically requested comment on:

- The option of reducing the importance of diversification factor in the comparative renewal process, *e.g.*, whether or not an otherwise fully qualified incumbent licensee would be penalized for its other media interests as long as (1) they are in compliance with the Commission's ownership rules and policies and (2) there have been no adjudicated instances of antitrust or anticompetitive misconduct;
- The proposal to continue using the integration of ownership and managment citerion (that is, giving an applicant a comparative preference if its owners will participate full-time in the management of the station) as currently administered. However, the Commission indicated that it will not entertain any proposals which would alter the Commission's enhancement policies regarding females and minorities.
- Whether the Commission should modify or eliminate the current presumption that competing applicants who prevail in renewal hearings will be able to acquire the transmitter sites of the incumbents;
- Any additional or alternative criteria commenters believe may serve as a better guide for selecting a licensee than those currently in use.

10.The final area considered in this action concerns how the Commission should define the standard that should be used to determine when an incumbent licensee is entitled to a renewal expectancy. The proceeding presents two major approaches to defining renewal expectancy: a programming-based standard relying on a concept of providing "meritorious" broadcast service, and a less programming-instrusive approach that is based on substantial compliance with

the Communications Act and the Commission's Rules and policies. The Commission denotes the following issues for possible comment;

- Whether commenters believe the public interest is best served by continuing or modifying the present programming-based renewal expectancy under which an incumbent is given significant credit if its past program service has been "meritorious" in meeting the needs and interests of viewers and listeners in its community of license and service area;
- What standards should be utilized for determining when a past broadcast record is meritorious;
- Whether programming review should be limited to nonentertainment programming or should include any programming which addresses community needs and interests;
- Whether the definitions of meritious service proposed in S. 1277 and H.R. 3493 would be helpful in enabling the Commission to clarify when a renewal expectancy is warranted;
- Whether or not commenters agree with described deficiencies of a programming-based renewal expectancy, including practical administrative problems and evidence this approach may chill speech or present other first amendment problems.

11. As an alternative to retaining and modifying the meritorious service standard, the *Notice* proposed two less programming-intrusive bases for determining renewal expectancy. One such approach would be to utilize a substantive test similar to that set forth in H.R. 1140. Under this test, a renewal expectancy would be warranted if an incumbent has (1) broadcast material responsive to matters of concern to the residents of its service area; and (2) there have been no serious violations of the Communications Act or Commission rules or no other violations, which taken together, would constitute a pattern of abuse. The first prong of this test, which essentially codifies the obligation under our radio and television deregulation orders for stations to broadcast programming responsive to community needs, eliminates the need for the Commission to place subjective labels—such as superior, meritorious, or minimal—on an incumbent's past programming and, instead, would focus upon whether a licensee has been reasonable in selecting issues to address and airing programming responsive to these community needs. The second prong would ensure that there have been no serious statutory or regulatory violations.

12. A second approach—which may be even less intrusive from a programming standpoint—would be to grant a renewal expectancy based upon a licensee's *overall* record of compliance with the Communications Act and the Commission's rules and policies. Under this alternative, a licensee would obtain a renewal expectancy based upon the licensee's demonstration of good faith compliance with the Commission's rules and regulations and statutory requirements. This would include the various program-related obligations discussed above of providing issue-responsive programming. However, unlike the preceding option, programming need not automatically be an issue in every comparative renewal hearing. Rather, violations of the issue-responsive program obligation, as well as any other type of rule or policy violation, would only be considered when raised by a petition to deny or by a complaint.

13. With respect to these less programming intrusive bases for determining renewal expectancy, commenters are asked to consider:

- What types of violations of the Communications Act or FCC rules or policies are so serious as to diminish a licensee's renewal expectancy;
- What process should be used to determine whether or not a violation of the Act or Commission rules or policies has occurred;
- What level of compliance with statutory and regulatory requirements warrants a renewal expectancy;
- Whether these approaches are preferable to the present meritorious service standard;
- Whether these approaches are consistent with the hearing requirements of Section 309(d) of the Communications Act.

14. The Commission believes, for several reasons, that this further inquiry into the comparative renewal process will serve the public interest. By considering how we can deter abuses of the renewal process in this docket, we will be able to ensure the integrity of that process. In addition, the Commission hopes that, with the aid of the updated record provided though this action, we will be able to refine or modify standards for determining a renewal expectancy so that regulatees, the industry, and the public will more clearly understand the obligations of broadcast licensees. At the same time, by re-evaluating the other comparative factors, we will be able to make the comparative process more meaningful and fair to both challengers and incumbents.

Authority Citation

15. Authority for this proceeding is contained in sections 1, 4(i) and (j), 303, and 403 of the Communications Act of 1934 as amended.

Ex Parte Information

16. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Comment Information

17. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before October 7, 1988, and reply comments on or before November 7, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Paperwork Reduction Act Statement

18. The proposal contained herein has been analyzed with respect to the paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Initial Regulatory Flexibility Statement

19. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, adoption of the abuse of process proposals involving settlement agreements would benefit entities of all sizes because it would reduce or eliminate the number of competing applications or petitions to deny filed in bad faith. As a result, the number of comparative renewal hearings may be further reduced as well as the number of participants in such hearings. This may be particularly beneficial to small entities with limited financial resources because it may obviate the need for costly comparative renewal hearings or may reduce substantially the amount of money that could be paid as part of a settlement, enabling such small licensees to use the saved resources for other purposes.

20. Likewise, modifying or refining the comparative criteria utilized in comparative renewal hearings—including renewal expectancy—would be beneficial to broadcasters of all sizes because the basis for comparison would be streamlined and clarified. As a result, hearings could be simpler and less costly. Ths latter benefit would be

particularly helpful to small licensees, who may not have sufficient resources for a prolonged comparative renewal hearing and appeal process.

21. The Secretary shall send a copy of this *Further Notice of Inquiry and Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981)).

List of Subjects in 47 CFR Part 73

Television broadcasting, Radio broadcasting.

Federal Communications Commission.

H. Walker Feaster, III

Acting Secretary.

[FR Doc. 88–19005 Filed 8–19–88; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 53, No. 162
Monday, August 22, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Special Volunteer Programs, Availability of Funds; Demonstration Grants

The Program Demonstration and Development Division of ACTION announces the anticipated availability of funds during fiscal year 1989 for demonstration grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, Title I, Part C; 42 U.S.C. 4992).

The purpose of this program is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to human and social concerns such as illicit drug use by youth, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

As most recently documented by the White House Conference for a Drug-Free America, the best strategy to combat illegal drug use is to prevent it from starting. Effective prevention requires the involvement of every segment of the community, recognizing that no single approach will work in every locale. Comprehensive approaches assure that clear, consistent "no use" mesage are delivered and reinforced by a variety of community sources. America's youth, who are so often confronted by peer pressure and other encouragement to use illegal drugs, are perhaps the most important targets for such anti-drug programming, yet drug-free youth also constitute a tremendous resource for a community's drug prevention effort. Despite impressive progress in the prevention of drug use—particularly among youth—there is a critical need for such programs in every part of the country.

A. Preventing the Use of Illicit Drugs by Youth

Consideration will be limited to innovative proposals using volunteers in one of the following two strategies for preventing the use of illicit drugs by youth:

1. The development of a state-wide network to create and support broad-based local coalitions that may include volunteer groups, service organizations, schools, government agencies (especially law enforcement and social service agencies), religious organizations, media, business and youth groups to more effectively engage in the prevention of illicit drug use by youth.

2. The mobilization and coordination of community youth serving organizations such as parents' groups, neighborhood associations, commmunity organizations, businesses, religious institutions, schools and local government agencies into effective community-based prevention councils or coalitions to prevent the use of illicit drugs by youth. Coalitions and organizations targetting youth in low-income communities are particularly encouraged to apply.

The following examples of strategies carried out by local coalitions and youth-service organizations have been supported and endorsed by ACTION. They include:

Adding a drug-free prevention and education component to existing youth development or recreational activity;

Organizing and supervising drug-free positive recreational alternatives for youth in schools and in community recreational facilities and activities—particularly for after-school and weekend periods;

Recognizing youth who have chosen to be drug-free;

Using youth who maintain drug-free life styles as peers to be emulated by other youth and reverse the peer pressure to use illicit drugs;

Conducting follow-up activities to one-time drug use prevention awareness-raising events for youth and others to reinforce the positive changes in community attitudes toward illicit drug use;

Providing technical assistance and current information on the harmful consequences to health stemming from the use of illicit drugs;

Incorporating drug use prevention and education strategies as an integral component of community youth recreational facilities and activities; and

Expanding the involvement of parents and parents' groups in prevention and educational activities and events for youth.

B. Eligible Applicants

Only applications from private non-profit incorporated organizations and public agencies will be considered. Any applicant who does not adhere to a policy of the strict non-use of illicit drugs will not be eligible for consideration. Furthermore, an application will be ineligible if it refers to philosophy, proposed activities, or training or educational materials implying that the initial or responsible use of any illicit drug, or the illicit use of any legal drug, will be tolerated by the applicant.

C. Available Funds and Scope of the Grant

ACTION anticipates awarding, subject to the availability of FY 1989 funds, grants averaging $38,000 but not exceeding $50,000.

Publication of this announcement does not obligate ACTION to award any specific number of grants or to obligate any specific amount of money for demonstration grants.

Projects funded under this announcement will receive funds for one time and are not renewable.

D. General Criteria for Grant Selection

Grant applications will be reviewed and evaluated based on the criteria outlined below, as appropriate, as well as conformance to the instruction included in the application. Grant applicants with a demonstrated competence in using volunteers to prevent the use of illicit drugs by youth, and applicants which have not received ACTION Demonstration Program funds previously will be given preference.

1. Potential to recruit, train and utilize volunteers in area of priority.

2. Promise of developing innovations or knowledge in mobilizing and sustaining State and local volunteer efforts to prevent illicit drug use by youth.

3. Potential for replication of the project model including: plans for implementation and dissemination or results of the project including any products such as reports and manuals for use by others.

4. Plans for continuation of the activities and self-sufficiency of the program following the completion of the project supported by ACTION funds.

5. Extent to which youth representing the target population of the project are involved in planning, developing and conducting project activities.

6. Carefully formulated schedule for achieving objectives, including self-sufficiency, and feasibility of methods for meeting those objectives.

7. Capability of proposed staff.

8. Likelihood of completion of project within proposed timetable.

9. Feasibility of proposed budget.

10. Adequacy of plans for data gathering and evaluation.

11. Letters of support from collaborating agencies and organizations and intent to participate in the project where such could be expected to contribute to the value or success of the project.

12. Samples of current materials to be disseminated to the participants, or used to train volunteers.

13. While specific levels of matching funds are not a requirement for grants, evidence of local public and private sector support (financial and in-kind) is strongly encouraged and will be considered in the decision making process. Applicants capable of such contributions should specify the sources and nature of in-kind and other non-federal contributions. These contributions must be deemed allowable costs in accordance with ACTION requirements and be supported by a detailed budget narrative listing the source of that support and the formula used to compute those costs.

E. Application Review Process

ACTION's Program Demonstration Branch, which has expertise in volunteer demonstration programs, will review and evaluate all eligible applications submitted under this announcement. ACTION's Associate Director for Domestic and Anti-Poverty Operations will make the final selection. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

F. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to the appropriate ACTION State Office no later than 5:00 p.m. local standard time on October 17, 1988. Only those applications that are received at the appropriate ACTION State Office by 5:00 p.m. local standard time on this date will be eligible.

All grant applications must consist of:

a. Application for Federal Assistance (ACTION Form No. A-1036) with a narrative budget justification and a narrative of project goals and objectives, and assurances.

b. CPA certification of accounting capability.

c. Articles of Incorporation.

d. Proof of non-profit status or an application for non-profit status, which should be made through documentation.

e. Current resume of candidates for the position of project director, if available, or the current resume of the director of the applicant agency or project.

f. Organization chart of the applicant organization showing how the project is related to the organization.

g. List of the current board of directors showing their names, addresses and organizational or community affiliation.

To receive an application kit, please contact your ACTION State Office. Following is an address list of ACTION Regional Offices, along with the addresses of ACTION State Offices under their jurisdiction:

Region

Mr. John F. Torian, ACTION Regional Director, 10 Causeway Street Rm 473, Boston, MA 02222-1039, (617) 565-7000

Mr. Romero A. Cherry, ACTION State Program Director, Abraham Ribicoff Federal Bldg., 450 Main Street, Room 524, Hartford, CT 06103-30002, (203) 240-3237

Mr. Thomas E. Endres, ACTION State Program Director, Federal Bldg., Room 305, 76 Pearl Street, Portland, ME 04101-4188, (207) 780-3414

Mr. Malcolm Coles, ACTION State Program Director, 10 Causeway Street, Room 473, Boston, MA 02222-1038, (617) 565-7015

Mr. Peter Bender, ACTION State Program Director, Federal Post Office & Courthouse, 55 Pleasant Street, Room 316, Concord, NH 03301-3939, (603) 225-1450

Mr. Vincent Marzullo, ACTION State Program Director, John E. Fogarty Bldg., Room 200, 24 Weybosset Street, Providence, RI 02903-2882, (401) 528-5424

Region II

Mr. Herbert W. Stupp, ACTION Regional Director, 6 World Trade Center, Room 758, New York, NY 10048-0206

Mr. Stanley Gorland, ACTION State Program Director, 402 East State Street, District III, Room 422, Trenton, NJ 08608-1507, (609) 989-2243

Mr. Bernard A. Conte, ACTION State Program Director, 6 World Trade Center, Room 758, New York, NY 10048-0206, (212) 466-4471

Mr. Ruben Nazario, ACTION State Program Director, Federico DeGetau Fedeal Ofc Bldg, Carlos Chardon Avenue, Suite G-49, Hato Rey, PR 00918-2241, (809) 766-5314 & 766-5188

Region III

Ms. Maryann Urban, ACTION Regional Director, U.S. Customs House, 2nd and Chestnut Street, Room 108, Philadelphia, PA 19106-2912

Mr. Benjamin I. Cheney, Jr., ACTION State Program Director, Federal Building Room 372-D, 600 Federal Place, Louisville, KY 40202-2230, (502) 582-6384

Mr. Paul Schrader, ACTION State Program Director, Federal Bldg., Room 500, 85 Marconi Blvd., Columbus, OH 43215-2888, (614) 469-7441

Ms. Sally W. Yurchuck, ACTION State Program Director, U.S. Customs House, Room 108, 2nd and Chestnut Streets, Philadelphia, PA 19106-2998, (215) 597-3543

Mr. Lindsay B. Scott (Virginia and the District of Columbia), ACTION State Program Director, 400 North 8th Street, P.O. Box 10066, Richmond, VA 23240-1832, (804) 771-2197

Mr. Jerry E. Yates, ACTION State Program Director, Federal Bldg., 31 Hopkins Plaza, Room 1125, Baltimore, MD 21201-2814, (301) 962-4443

Ms. Jean Taylor-Brown, ACTION State Program Director, 603 Morris Street—2nd Floor, Charleston, WVA 25301-1409, (304) 347-5246

Region IV

Mr. Henry I. Jibaja, Acting ACTION Regional Director, 101 Marietta Street, N.W.—Suite 1003, Atlanta, GA 30323-2301

Mr. John D. Timmons, ACTION State Program Director, 2121-8th Avenue North, Room 722, Birmingham, AL 35203-2307, (205) 254-1908

Ms. Betsy Wells, Acting ACTION State Program Director, 930 Woodcock Road—Suite 221, Orlando, FL 32803-3750, (305) 648-6117

Mr. David A. Dammann, ACTION State Program Director, 75 Piedmont Avenue, NE., Suite 412, Atlanta, GA 30303-2587, (404) 331-4646

Mr. Alfred E. Johnson, ACTION State Program Director, U.S. Bldg./Federal Bldg., 801 Broadway, Room 246, Nashville, TN 37203-3889, (615) 251-5561

Mr. Robert L. Winston, ACTION State Program Director, Federal Building, P.O. Century Station, 300 Fayetteville Street Mall, Room 131, Raleigh, NC 27601–1739, (919) 856–4731

Mr. Arthur E. Brown, III, ACTION State Program Director, Federal Bldg., Room 1005–A, 100 West Capital Street, Jackson, MS 39269–1092, (601) 965–5664

Mr. Jerome J. Davis, ACTION State Program Director, Federal Building, Room 872, 1835 Assembly Street, Columbia, SC 29201–2430, (803) 765–5771

Region V

Mr. Alan A. Drazek, ACTION Regional Director, 10 West Jackson Blvd.—6th Floor, Chicago, IL 60604–3964

Mr. James E. Braxton, ACTION State Program Director, 10 West Jackson Blvd.—6th Floor, Chicago, IL 60604–3964, (312) 353–8383

Mr. Thomas L. Haskett, ACTION State Program Director, 46 East Ohio Street—Room 457, Indianapolis, IN 46204–1922, (317) 269–6724

Mr. Joel H. Weinstein, ACTION State Program Director, Federal Building, Room 339, 210 Walnut St., Des Moines, IA 50309–2195, (515) 284–4816

Mr. Stanley M. Stewart, ACTION State Program Director, Federal Bldg., Room 658, 231 West Lafayette Blvd., Detroit, MI 48226–2799, (313) 226–7848

Mr. Peter A. Marks, ACTION State Program Director, Old Federal Bldg.—Room 126, 212 Third Avenue South, Minneapolis, MN 55401–2596, (612) 334–4083

Mr. Michael P. Murphy, ACTION State Program Director, 517 East Wisconsin Avenue, Rm. 601, Milwaukee, WI 53202–4507, (414) 291–1118

Region VI

Ms. Paulette E. Standefer, ACTION Regional Director, 1100 Commerce Street, Room 6B11, Dallas, TX 75242–0696

Mr. John J. McDonald, ACTION State Program Director, Federal Office Bldg., 911 Walnut, Room 1701, Kansas City, MO 64106–2009, (816) 426–5256

Mr. Jerry G. Thompson, ACTION State Program Director, 611 East Sixth Street, Suite 107, Austin, TX 78701–3747, (512) 482–5671

Mr. Robert J. Torvestad, ACTION State Program Director, Federal Bldg., Room 2506, 700 West Capitol Street, Little Rock, AR 72201–3291, (501) 378–5234

Mr. James M. Byrnes, ACTION State Program Director, Federal Bldg., Room 248, 444 SE Quincy, Topeka, KS 66603–3501, (913) 295–2540

Mr. Willard L. Labrie, ACTION State Program Director, 626 Main Street, Suite 102, Baton Rouge, LA 70801–1910, (504) 389–0471

Mr. Ernesto Ramos, ACTION State Program Director, Old Federal Bldg., Catedral Place, Room 129 Sante Fe, NM 87501–2026 (505) 988–6577

Mr. Zeke Rodriquez, ACTION State Program Director, 200 NW 5th Street, Suite 912, Oklahoma City, OK 73102–6093, (405) 231–5201

Region VIII

Ms. Naomi L. Bradford, ACTION Regional Director, Executive Tower Bldg., 1405 Curtis Street, Suite 2930, Denver, CO 80202–2349

Mr. Ben Knopp, ACTION State Program Director, Columbine Bldg., Room 301, 1845 Sherman Street, Denver, CO 80203–1167, (303) 866–1070

Mr. Ben Knopp, ACTION State Program Director, Federal Bldg., Room 8036, 2120 Capitol Avenue, Cheyenne, WY 82001–3649, (303) 866–1070

Mr. Joe R. Lovelady, ACTION State Program Director, Federal Office Bldg., Drawer 10051, 301 South Park, Room 192, Helena, MT 59626–0101, (406) 449–5404

Ms. Anne C. Johnson, ACTION State Program Director, Federal Bldg., Room 293, 100 Centennial Mall North, Lincoln, NE 68508–3896, (402) 471–5493

Ms. Naomi Bradford, Acting, ACTION State Program Director (North/South Dakota), Federal Bldg. Room 213, 225 S. Pierre Street, Pierre, SD 57501–2452, (605) 224–5996

Mr. Gary S. O'Neal, ACTION State Program Director, U.S. Post Office & Courthouse, 350 South Main Street, Room 484, Salt Lake City, UT 84101–2198, (801) 524–5411

Region IX

Ms. Teresa Keeshan, ACTION Regional Director, 211 Main Street, Room 530, San Francisco, CA 94105–1914

Mr. Ricardo Gerakos, ACTION State Program Director, Federal Bldg. Room 14218, 11000 Wilshire Blvd., Los Angeles, CA 90024–3671, (213) 209–7421

Mr. Michael J. Gale, ACTION State Program Director, Federal Bldg., P.O. Box 50024, Honolulu, HI 96850–0001, (808) 541–2832

Mr. Steven P. Gordon, ACTION State Program Director, 4600 Kietzke Lane, Suite E–141, Reno, NV 89502–1208, (702) 784–5314

Mr. Jess A. Sixkiller, ACTION State Program Director, 522 North Central, Room 205–A, Phoenix, AZ 85004–2190, (602) 261–4825

Region X

Mr. John Keller, ACTION Regional Director, Suite 3039 Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103

Mr. Stephen Neal Stivers, ACTION State Program Director, Federal Bldg. Room 647, 511 N.W. Broadway, Portland, OR 97209–3416, (503) 221–2261

Mr. Jack R. Nunn, ACTION State Program Director, Alaska State Office, Suite 3039 Federal Office Bldg., 909 First Street Avenue, Seattle, WA 98174–1103, (206) 442–4975

Mr. Wilford E. Overgaard, ACTION State Program Director, The Alaska Center, Suite 340, 1020 Main Street, Boise, ID 83702–5745, (208) 334–1707

Mr. John A. Miller, ACTION State Program Director, Suite 3039 Federal Office Bldg., 909 First Avenue, Seattle, WA 98174–1103, (206) 442–4975

Signed at Washington, DC, this 12th day of August, 1988.

Donna M. Alvarado,

Director.

[FR Doc. 88–18929 Filed 8–19–88; 8:45 am]

BILLING CODE 6050–28–M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Advisory Committee on Procedures under the United States-Canada Free Trade Agreement; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Advisory Committee on Administrative Procedures under the U.S.-Canada Free Trade Agreement of the Administrative Conference of the United States. The Committee has scheduled this meeting to discuss certain administrative and procedural issues arising from implementation of the proposed Free Trade Agreement.

DATE: Friday, August 26, at 1:30 p.m.

Location: Administrative Conference of the US, Library, 2120 L Street, NW., Suite 500, Washington, DC 20037.

Public Participation

Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United

States, 2120 L Street, NW., Suite 500 (202) 254–7020.

August 17, 1988.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 88–19021 Filed 8–19–88; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Impact Statement; Grassy Gap and Wesser Timber Sales

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement for a proposal to harvest and regenerate timber on the Cheoah Ranger District, Nantahala National Forest, Graham and Swain Counties, North Carolina. The Agency invites written comments and suggestions on the scope of the analysis. In addition, the Agency gives notice of the full environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis should be received by October 1, 1988 to receive timely consideration.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to Steve Rickerson, District Ranger, National Forests in NC, Route 1, Box 16–A, Robbinsville, NC 28771.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Steve Ricerson, Cheoah Ranger District, Route 1, Box 16–A, Robbinsville, NC 28771, phone 704–479–6431.

SUPPLEMENTARY INFORMATION: The Land and Resource Management Plan for the Nantahala and Pisgah National Forests was issued in April 1987. In the Forest Plan, timber harvest and reforestation is scheduled within the Cheoah Bald area. This area was previously inventoried during the Roadless Area and Review Evaluation (RARE II, 1979) and recommended as non-wilderness. The North Carolina Wilderness Act of 1984 released the Cheoah Bald area for "* * * the purpose of determining their [the] suitability for inclusion in the National Wilderness Preservation System" until a revision of the Forest Plan.

Public participation is especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service began the scoping process in 1984 for the Grassy Gap Timber Sale and in 1985 for the Wesser Timber Sale. One significant issue was identified in each project relating to the impact of each timber sale on Appalachian National Recreation Trail users. Both projects lie adjacent to the Appalachian Trail.

The environmental assessments for both timber sales were completed; mitigation measures were identified to avoid impacts on trail users; and decision notices were issued to proceed with Grassy Gap Timber Sale in 1985 and the Wesser Timber Sale in 1987. Both projects called for road construction to access the area. The road construction was contracted by the Forest Service in 1986 for the Grassy Gap Timber Sale and the construction is completed. The road construction was contracted in 1987 for the Wesser Timber Sale and is now complete. Each project involves additional road construction of approximately 1.5 miles to be constructed by the timber sale purchaser. These roads were scheduled for short-term use only and the area impacted by road construction would be restored to vegetative cover after the timber sale. The additional road construction would occur within the boundary of the Cheoah Bald RARE II-released area and adjacent to the Appalachian National Recreation Trail.

The Forest Plan was issued in April 1987 and the decision to implement the Plan resulted in 6 appeals, one of which relates to the RARE II-released areas. An issue emerged regarding impacts on the roadless character of the area and how these impacts should be assessed. This issue had not been previously considered in the environmental analysis; therefore, the Grassy Gap and Wesser Timber Sales were withdrawn in 1988 for further analysis.

A new scoping process began in April 1988 for these sales. Approximately 60 individual letters were received and several interviews were conducted. A significant issue was identified which relates primarily to those publics who want to proceed with the sale to maintain the local economy and those who want to preserve the existing environment for future wilderness consideration.

Another significant issue was identified pertaining to the possible visual impact on Appalachian National Recreation Trail users. Each timber sale taken individually may have little impact on trail users. However, when both timber sales are considered collectively, the actions may have cumulatively significant impacts.

Additional comments from other Federal, State or local agencies, Indian tribes and other interested persons or organizations will be considered to identify significant issues. Comments should be received by October 1, 1988 to receive timely consideration.

In preparing the environmental impact statement, the Forest Service will identify and consider a range of alternatives for this area. One of these alternatives will be no harvesting and regeneration of timber in the area. Other alternatives will consider various locations of harvesting and regeneration units within the area to reduce visual impacts and reduce or eliminate further road construction.

Steve Rickerson, District Ranger, Cheoah Ranger District, National Forests in North Carolina, is the responsible official.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by August 1988. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date of the Environmental Protection Agency's notice of availability in the **Federal Register**. It is very important that those interested in the management of the Cheoah Bald area participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of a draft environmental impact statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this to

ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft environmental impact statement, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by November 1988. In the final environmental impact statement, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the environmental impact statement and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal.

Date: August 3, 1988.

Stephen R. Rickerson,

District Ranger.

[FR Doc. 88-18914 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Finding of No Significant Impact; Willow Creek-Cravens Creek Watershed, MO

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Willow Creek-Cravens Creek Watershed, Ray and Lafayette Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Russell C. Mills, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone (314) 875-5212.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Russell C. Mills, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include four (4) pumping plants, five (5) gravity outlets, 3.4 miles of outlet channel and raise 2.7 miles of dike.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Russell C. Mills, State Conservationist, Missouri.

No Administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Date: August 10, 1988.

Russell C. Mills,

State Conservationist.

[FR Doc. 88-18913 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Survey of Income and Program Participation—1988 Panel Wave 4.
Form Number: SIPP 8400 Wave 4 Questionnaire, SIPP 84/7703 Reminder Card, SIPP 84/7705(L) Introductory Letter.
Type of Request: Revision.
Burden: 12,180 hours.
Average Hours Per Response: 30 minutes.
Needs and Uses: This survey will provide statistics on income, employment and household composition, taxes, assets, in-kind income, and related subjects to estimate the effects of Executive and Legislative decisions.
Affected Public: Individuals or households.
Frequency: One time.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 15, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-19008 Filed 8-19-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: 1990 Decennial Census—Block Splits.
Form Number: D110A Address Listing Page.
Type of Request: New.
Burden: 6,267 hours.
Average Hours Per Response: 1.8 minutes.
Needs and Uses: This data is used by the Census Bureau to assign correct tabulation codes for political jurisdictions and related boundaries for statistics published from data collected during the 1990 decennial census.
Affected Public: Individuals or households States or local governments Federal agencies or employees Non-profit institutions Small businesses or organizations.
Frequency: One time per address.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance

Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 15, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–19009 Filed 8–19–88; 8:45 am]

BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Survey of Income and Program Participation, 1989 Panel Core, Waves 1–8.
Form Number: SIPP 9100–9800, Waves 1–8 Core Questionnaires, 9001 Control Card, 9105 Introductory Letter.
Type of Request: Revision.
Burden: 24,360 hours.
Average Hours Per Response: 30 minutes.
Needs and Uses: This survey provides statistics on income, employment and household composition, taxes, assets, in-kind income, and related subjects to estimate the effects of Executive and Legislative decisions.
Affected Public: Individuals or households.
Frequency: Three times a year.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commece, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 15, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–19010 Filed 8–19–88; 8:45 am]

BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Current Industrial Reports Program—Wave I Mandatory.
Form Number: M20H, M20M, MA28C, MA28F, MA32C, MA33A, MA33E, MA36F, MA36R.
Type of Request: Revision.
Burden: 9,784 hours.
Average Hours Per Response: Varies with each form.
Needs and Uses: This program collects and publishes 7-digit product information from 44,000 manufacturing firms on over 5,000 manufactured products. Survey results are available monthly, quarterly, and annually and are used by Government agencies to analyze specific commodities and industries..
Affected Public: Business and other for-profit.
Frequency: Annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 15, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–19011 Filed 8–19–88; 8:45 am]

BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Current Industrial Reports Program—Wave I Voluntary.
Form Number: M22D, M28B, M28B1, M28B2, M28C, M28F, M32D, M37G, MQ34H, MQ34K, MQ36B, MQ36C, MA22M, MA25H, MA30B, MA30C, MA35U.
Type of Request: Revision.
Burden: 9,198 hours.
Average Hours Per Response: Varies per form.
Needs and Uses: This program collects and publishes 7-digit product information from 44,000 manufacturing firms on over 5,000 manufactured products. Survey results are available monthly, quarterly, and annually and are used by Government agencies to analyze specific commodities and industries.
Affected Public: Businesses and other for-profit.
Frequency: Monthly, Quarterly, and Annually.
Respondent's Obligation: Voluntary/Mandatory.
OMB Desk Officer: Francine Picoult, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 15, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88–19012 Filed 8–19–88; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–307–701]

Antidumping Duty Order; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce (the

Department) determined that certain electrical conductor aluminum redraw rod (redraw rod) from Venezuela is being sold at less than fair value within the meaning of the antidumping duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of redraw rod from Venezuela threaten material injury to a U.S. industry.

When the ITC finds threat of material injury, the "Special Rule" provision of section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), [19 U.S.C. 1673e(b)(2)], applies. Therefore, all unliquidated entries, or warehouse withdrawals, for consumption of redraw rod from Venezuela made on or after August 11, 1988, the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the International Trade Commission (ITC), will be liable for the assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all entries of redraw rod from Venezuela entered or withdrawn from warehouse, for consumption, on or after the date of publication of the above-mentioned ITC determination in the **Federal Register.**

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, or Bernard Carreau, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202/377–2438 (Tillman) or 202/377–2786 (Carreau).

SUPPLEMENTARY INFORMATION: The product covered by this investigation is certain electrical conductor aluminum redraw rod, which is wrought rod of aluminum, electrically conductive and containing not less than 99 percent of aluminum by weight. Redraw rod is currently classified under item numbers 618.1520 and 618.1540 of the *Tariff Schedules of the United States, Annotated* and under item numbers 7604.10.30 and 7604.29.30 of the Harmonized System.

In accordance with section 735(d) of the Act (19 U.S.C. 1673d(a)), on June 30, 1988, the Department published its final determination that redraw rod from Venezuela is being sold at less than fair value (53 FR 24755). On August 5, 1988, in accordance with section 735(d) of the Act, the ITC notified the Department of its determination that such imports threaten material injury to a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of redraw rod from Venezuela. These antidumping duties will be assessed on all unliquidated entries of redraw rod from Venezuela entered or withdrawn from warehouse, for consumption, on or after August 17, 1988, the date on which the ITC published its affirmative determination of threat of material injury in the **Federal Register,** in accordance with the "Special Rule" provision of section 736(b)(2) of the Act, (19 U.S.C. 1673e(b)(2)).

Because the ITC determined that imports of redraw rod from Venezuela only threaten material injury to, rather than materially injure, a U.S. industry, Customs field offices are being directed to terminate the suspension of liquidation, release any bond or other security and refund any cash deposit made on entries of redraw rod to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption, before the ITC final determination publication date in the **Federal Register.**

On and after the date of publication of the above-mentioned ITC notice, U.S. Customs Service must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average dumping duty margin of 5.80 percent.

This determination constitutes an antidumping duty order with respect to redraw rod from Venezuela pursuant to section 736(a) of the Act (19 U.S.C. 1673e(a)) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B–099, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Bernard Carreau (202) 377–2786.

This notice is published in accordance with section 736(a) of the Act (19 U.S.C. 1673e) and 19 CFR 353.48.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

August 16, 1988.

[FR Doc. 88–18997 Filed 8–19–88; 8:45 am]

BILLING CODE 3510–DS–M

[C–307–702]

Countervailing Duty Order: Certain Electrical Conductor Aluminum Redraw Rod from Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that exports of certain electrical conductor aluminum redraw rod (redraw rod) from Venezuela are receiving benefits which constitute subsidies within the meaning of the countervailing duty law. In a separate investigation, the U.S. International Trade Commission (ITC) determined that imports of redraw rod from Venezuela threaten material injury to a U.S. industry.

When the ITC finds threat of material injury, the "Special Rule" provision of section 706(b)(2) of the Tariff Act of 1930, as amended (the Act), [19 U.S.C. 1671e(b)(2)], applies. Therefore, all unliquidated entries, or warehouse withdrawals, for consumption of redraw rod from Venezuela made on or after August 17, 1988, the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the International Trade Commission (ITC), will be liable for the assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties of 38.40 percent *ad valorem* must be made on all entries of the subject merchandise from Venezuela, or withdrawals from warehouse, for consumption, made on or after the date of publication of the above-mentioned ITC determination in the **Federal Register.**

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Office of Investigations, or Bernard Carreau, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230;

telephone: 202/377-2438 (Tillman) or 202/377-2786 (Carreau).

SUPPLEMENTARY INFORMATION: The product covered by this investigation is certain electrical conductor aluminum redraw rod, which is wrought rod of aluminum electrically conductive and containing not less than 99 percent of aluminum by weight. Redraw rod is currently classified under item numbers 618.1520 and 618.1540 of the *Tariff Schedules of the United States, Annotated* and under item numbers 7604.10.30 and 7604.29.30 of the Harmonized System.

In accordance with section 705(d) of the Act (19 U.S.C. 1671d), on June 30, 1988, the Department published its final determination that manufacturers, producers, or exporters of redraw rod in Venezuela received benefits which constitute subsidies within the meaning of the countervailing duty law (53 FR 24763).

On August 5, 1988, in accordance with section 705(d) of the Act (19 U.S.C. 1671d), the ITC notified the Department of its determination that subsidized imports of redraw rod from Venezuela threaten material injury to a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act [19 U.S.C. 1671e and 1675], the Department directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751 of the Act (19 U.S.C. 1671e(a)(1) and 1675), countervailing duties equal to the amount of the estimated net subsidy on all entries of redraw rod from Venezuela. These countervailing duties will be assessed on all unliquidated entries of redraw rod from Venezuela which are entered, or withdrawn from warehouse, for consumption, on or after August 17, 1988, the date on which the ITC published its affirmative determination of threat of material injury in the **Federal Register**, in accordance with the "Special Rule" provision of section 706(b)(2) of the Act, (19 U.S.C. 1671e(b)(2)).

Because the ITC determined that imports of redraw rod from Venezuela only threaten material injury to, rather than materially injure, a U.S. industry, Customs field offices are being directed to release any bond or other security and refund any cash deposit made on entries of redraw rod to secure the payment of countervailing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption, before the ITC final determination publication date in the **Federal Register**.

On and after the date of publication of the above-mentioned ITC notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 38.40 percent *ad valorem* for all entries of redraw rod from Venezuela.

This determination constitutes a countervailing duty order with respect to redraw rod from Venezuela pursuant to section 706(a)(1) of the Act [19 U.S.C. 1671e(a)(1)] and § 355.36 of the Commerce Regulations (19 CFR 355.36). We have deleted from the Commerce Regulations Annex III of 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Bernard Carreau (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

August 16, 1988.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-18998 Filed 8-19-88; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; North Dakota Export Trading Co.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application #87-A0010.

SUMMARY: The Department of Commerce has issued an amendment to the export trade certificate of review of The North Dakota Export Trading Company granted on October 5, 1987 (52 FR 37816, October 9, 1987). The amendment was deemed submitted on May 18, 1988, and a summary of the application was published in the **Federal Register** on June 3, 1988 (53 FR 20355). This notice summarizes the revisions made to the original certificate.

FOR FURTHER INFORMATION CONTACT: John E. Stiner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b) which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate:

Export Trade Certificate of Review No. 87-00010, issued on October 5, 1987, is amended by:

1. Adding the following additional companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Minn-Dak Grower's Association, Grand Forks, ND, and North Central Commodities, Grand Forks, ND and its controlling entity, Johnstown Bean Company, Johnstown, ND.

2. Expanding the list of examples of Products to be covered by the certificate. The revised listing is as follows: Agricultural products, including, but not limited to, wheat, durum, corn soybeans, edible beans, sunflower seeds, crude and refined sunflower oil, seed and commercial potatoes, livestock, barley, buckwheat, mustard, flaxseed, millet, field peas, triticale, safflower, processed pasta products, rapeseed, oats, honey, semolina, wheat flour, wheat by-products, and processed forms of these agricultural products; and agricultural machinery, equipment, and supplies.

3. Revising the "Export Trade Activities and Methods of Operation" section of the certificate to better reflect the interactions among the NDETC and its Members, and to include new activities, items (10) and (11) below. The revised section is as follows:

The NDETC and its Members may:

(1) Enter into joint discussions and negotiations with foreign buyers concerning:

a. Standardized production specifications and commodity quality standards, quantities, prices, timing,

shipping, packing, credit and banking terms necessary to meet the needs of the foreign buyer, the NDETC, and its Members and Suppliers;

b. Standardized tender terms in a manner which will allow the NDETC and its Members to compete; and

c. Standardize bidding procedures acceptable to foreign buyers.

(2) Act jointly to negotiate charges and other terms and to negotiate contracts with providers of transportation services, including advantageous freight contracts with individual carriers and carrier conferences, including chartering of vessels for the NDETC and any or all of its Members and Suppliers, and including negotiations for inland transportation of Products in the course of being exported.

(3) Enter into agreements among themselves and with individual Suppliers on the terms of Supplier participation in the negotiation and fulfillment of transportation contracts, including participation in inland transportation negotiations for Products in the course of being exported.

(4) Refuse to deal with an individual or company with respect to the export of any Product to a foreign buyer.

(5) Refuse to deal with any Member or Supplier, with respect to the export of any Product to a foreign buyer not complying with the standards or other terms of export trade set by the NDETC and/or its Members.

(6) Exchange information among themselves and with individual Suppliers concerning the extent of individual Member and Supplier participation in specific export transactions in which the NDETC participates. The information to be exchanged for this purpose includes:

(a) Information that is already available to the trade or to the general public;

(b) Information (such as selling strategies, prices, projected demand, customary terms of sale) solely about the Export Markets;

(c) Information on costs specific to selling to the Export Markets (such as ocean freight, inland freight to the terminal or port, terminal or port storage, wharfage and handling charges, insurance, agents, commissions, export sales documentation and service, and export sales financing);

(d) Information about U.S. and foreign legislation and regulations affecting sales to Export Markets;

(e) Information about price, quality, quantity, source, and delivery dates of Products available from Members and Suppliers for export; and

(f) Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by the NDETC, its Members, and/or Suppliers.

(7) Enter into exclusive or nonexclusive agreements with Export Intermediaries to act for the NDETC and its Members and Suppliers, whereby each Export Intermediary agrees not to represent the NDETC's competitors in the sale of Products in any Export Market and not to buy any Products from any of the NDETC's competitors for resale in any Export Market.

(8) Enter into exclusive or nonexclusive agreements with foreign customers, whereby each customer agrees not to purchase Products from the NDETC's competitors.

(9) Act as an Export Intermediary for individual Suppliers and enter into exclusive or nonexclusive agreements with Suppliers, international banks, and other Export Intermediaries, for the provision of Export Trade Facilitation Services.

(10) Enter into discussions and negotiations and make agreements with Members or with an individual Supplier regarding the price at which the NDETC determines the Member or Supplier will sell exported Products to a foreign buyer.

(11) Enter into exclusive or non-exclusive agreements with Members and Suppliers, whereby the Member and Supplier agrees not to sell a specified product for export to the NDETC's competitors.

(12) Limit eligibility to participate as a shareholder in the NDETC to businesses operating in North Dakota and to North Dakota residents.

(13) Enter into joint ventures with and to purchase Products from individual Members and Suppliers that meet quality, quantity, and price specifications for transactions. When taking title to Products, the NDETC will engage in price, quantity, quality, and other negotiations directly with the foreign buyer.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Date: August 17, 1988.

John D. Stiner,

Director, Office of Export Trading Company Affairs.

[FR Doc. 88-18999 Filed 8-19-88; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Salmon Plan Team will convene a public meeting on August 25, 1988, at 9 a.m., at the National Marine Fisheries Service, Alaska Regional Office, 709 West 9th Street, Juneau, AK, to review an updated draft of the High Seas Salmon Fishery Management Plan. The public meeting will adjourn on August 26, 1988.

For further information contact Denby Lloyd, Plan Coordinator, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271-2809.

Date: August 17, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-18971 Filed 8-19-88; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON MERCHANT MARINE AND DEFENSE

Notice of Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

Date and Time: Wednesday, August 31, 1988; Beginning 10:00 a.m.

Place: South Auditorium, Henry Jackson Federal Building, 915 2nd Avenue, Seattle, Washington.

Type of Meeting: Open.

Contact Person: Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22302-0268, Telephone (202) 756-0411.

Purpose of Meeting: Commissioners Edward E. Carlson and Shannon J. Wall will receive and consider statements of individuals and groups in Washington and neighboring states about the problems and prospects of the nation's maritime industries, particularly the merchant marine and shipbuilding industries. In particular, Mr. Carlson and Mr. Wall desire reactions to the Commission's first two reports and its recommendations, views about the contributions of the maritime industries to the national security, and suggestions for actions that would help to address current and projected shortages of merchant marine and shipyard capability to meet defense requirements. Individuals or organizations desiring to present oral testimony must notify the Executive Director in writing or by telephone by August 26, 1988, and are requested to provide two copies of their written statements to the Commission and to have copies available for the press. Witnesses will be allowed a maximum of 15 minutes to summarize their written testimony, may be included on panels, and may be asked to respond to questions. Questions about the nature and content of testimony, scheduling, and related matters should be directed to Captain Wayne I. Humphreys, USN, the Commission's Chief of Staff.

SUPPLEMENTARY INFORMATION: Other interested persons are invited to submit written statements about the merchant marine and the shipping required to implement United States defense policy. Written statements should be delivered to the Commissioners at the public hearing or received at the Commission's office by the close of business on September 1, 1988. All written submissions will be made available for inspection by interested parties, and may be published as part of the Commission's proceedings. Submissions should be addressed to the Executive Director at the Commission's office in Alexandria, Virginia.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 88-18995 Filed 8-19-88; 8:45 am]

BILLING CODE 3820-01-M

Notice of Meeting

SUMMARY: The Commission on Merchant Marine and Defense was established by Pub. L. 98-525 (as amended), and the Commission was constituted in December 1986. The Commission's mandate is to study and report on problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the Merchant Marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base to support naval and merchant ship construction. In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the following meeting:

Date and Time: Thursday, July 23, 1988; Beginning 10:00 a.m.

Place: Walter E. Hoffman Court House Building, 600 Granby Street, Norfolk, Virginia.

Type of Meeting: Open.

Contact Person: Allan W. Cameron, Executive Director, Commission on Merchant Marine and Defense, Suite 520, 4401 Ford Avenue, Alexandria, Virginia 22302-0268, Telephone (202) 756-0411.

Purpose of Meeting: Commissioner James L. Holloway, III (Admiral, USN, Ret.), will receive and consider statements of individuals and groups in Washington and neighboring states about the problems and prospects of the nation's maritime industries, particularly the merchant marine and shipbuilding industries. In particular, Admiral Holloway desires reactions to the Commission's first two reports and its recommendations, views about the contributions of the maritime industries to the national security, and suggestions for actions that would help to address current and projected shortages of merchant marine and shipyard capability to meet defense requirements. Individuals or organizations desiring to present oral testimony must notify the Executive Director in writing or by telephone by August 19, 1988, and are requested to provide two copies of their written statements to the Commission and to have copies available for the press. Witnesses will be allowed a maximum of 15 minutes to summarize their written testimony, may be included on panels, and may be asked to respond to questions. Questions about the nature and content of testimony, scheduling, and related matters should be directed to Captain Wayne I. Humphreys, USN, the Commission's Chief of Staff:

SUPPLEMENTARY INFORMATION: Other interested persons are invited to submit written statements about the merchant marine and the shipping required to implement United States defense policy. Written statements should be delivered to Admiral Holloway at the public hearing or received at the Commission's office by the close of business on August 24, 1988. All written submissions will be made available for inspection by interested parties, and may be published as part of the Commission's proceedings. Submissions should be addressed to the Executive Director at the Commission's office in Alexandria, Virginia.

Allan W. Cameron,

Executive Director, Commission on Merchant Marine and Defense.

[FR Doc. 88-18996 Filed 8-19-88; 8:45 am]

BILLING CODE 3820-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: September 12-13, 1988.

Time of Meetings: 0800-1700 hours, each day.

Place: TITAN, San Diego, California.

Agenda: The Army Science Board Ad Hoc Subgroup for Tactical Applications of Directed Energy Weapons (DEW) will meet for the purpose of refining the final draft of their report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-18941 Filed 8-19-88; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Implementation of OMB Circular A-125, "Prompt Payment, Attachment 2" and Other Revisions to Circular

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: The Defense Logistics Agency (DLA) announces the decision to phase out the use of fast pay procedures for routing stateside depot shipments in order to complete the Agency implementation of OMB Circular A-125, Attachment 2. Therefore, as of December 31, 1988, DLA will cease to issue contracts with fast pay provisions where the first destination is a stateside depot.

EFFECTIVE DATE: December 31, 1988.

FOR FURTHER INFORMATION CONTACT: James C. O'Laughlin, Accounting and Finance Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, Virginia, 22304–6100: (202) 274–6224.

SUPPLEMENTARY INFORMATION: Since 1982, the DoD Inspector General and the General Accounting Office (GAO) continued to highlight shortcomings in ensuring receipts of material under expedited payment methods. Subsequently, OMB revised the fast pay procedures and issued Attachment 2, to OMB Circular A–125 in April 1985. The revised circular limits the use of "fast pay" procedures to unusual circumstances, and eliminates fast pay use for delivery of depot stocks and other instances where timely payment can be made because receipt and acceptance is routinely communicated to the purchasing activity.

In February 1988, the GAO issued report NSIAD–88–113, "INTERNAL CONTROLS: Controls Over Expedited Payments to Defense Suppliers Need Improvement". The report concluded that DLA had not implemented Attachment 2 to OMB Circular A–125.

Although the regulatory change for fast pay is effective on August 19 1988, DLA will not implement until December 31, 1988 because of the required revisions to computer systems and internal procedures.

For the Director:

Charles R. Coffee,

Acting Chief, Accounting and Finance Division, Office of Comptroller.

[FR Doc. 88–18912 Filed 8–19–88; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP88–45–006]

Arkla Energy Resources; Compliance Filing

August 17, 1988.

Take notice that on August 10, 1988, Arkla Energy Resources (AER), a division of Arkla, Inc., filed as part of its FERC Gas Tariff, the following tariff sheets, proposed to be effective July 1, 1988:

First Revised Volume No. 1

Third Substitute 47th Revised Sheet No. 4
Original Sheet No. 4C

Original Volume No. 1–A

Second Substitute Fifth Revised Sheet No. 5
Second Substitute Fifth Revised Sheet No. 6
Second Substitute Fifth Revised Sheet No. 7
Original Sheet No. 9
Original Sheet No. 9A
Original Sheet No. 9B
Original Sheet No. 9C
Original Sheet No. 9D
Original Sheet No. 9E

Original Volume No. 3

Third Substitute 46th Revised Sheet No. 185
Original Sheet No. 188B
First Substitute Original Sheet No. 185.1

AER states that its filing is in compliance with the Commission's suspension order of January 2, 1988, its order on rehearing of May 20, 1988 and its order of July 18, 1988 rejecting AER's earlier compliance filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–19002 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–187–003]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 17, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 12, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

To Be Effective June 4, 1988

Second Substitute Twelfth Revised Sheet No. 16B.
Second Substitute Second Revised Sheet No. 16B1.
Second Substitute Second Revised Sheet No. 16B2.

To Be Effective July 29, 1988

Substitute Thirteenth Revised Sheet No. 16B.
Substitute Third Revised Sheet No. 16B1.
Substitute Third Revised Sheet No. 16B2.

Columbia states that the foregoing tariff sheets relate to Columbia's July 28, 1988 filing, in which it revised its initial filing in this docket pursuant to the Federal Energy Regulatory Commission's July 1, 1988 Order and supplemented the initial filing to permit Columbia to flow through additional take-or-pay and contract reformation costs to be billed to it by certain of its pipeline suppliers.

Columbia states that its July 28, 1988 filing allocated the subject pipeline supplier take-or-pay and contract reformation costs among Columbia's customers on the basis of cumulative purchase deficiencies. Since the date of that filing, Columbia states that it has determined that the average base and deficiency period volumes reflected therein for certain Columbia customers were incorrect due to inadvertent clerical errors. Specifically, the errors consist of a computer input error for volumes applicable to Dayton Power and Light Co. and Orange & Rockland Utilities, Inc. relating only to Transcontinental Gas Pipe LineCorporation flow through calculations. Such error affects the above indicated tariff sheets to the extent that those sheets reflect allocation of Fixed Monthly Demand Surcharges from Transco to Columbia.

Columbia states these tariff sheets with the instant filing reflect the revised allocation factors and Fixed Monthly Demand Surcharges resulting from the adjustments to the average base and deficiency period volumes. Upon acceptance of this filing, Columbia states that it will adjust the prior billings to its customers to reflect the revised allocation factors and Fixed Monthly Demand Surcharges.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and to each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP88–187–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 24, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–18935 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88–207–002 and RP87–55–007]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Traiff

August 17, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 12, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Substitute Original Sheet No. 16B3.
Substitute Original Sheet No. 16B4.
Substitute Original Sheet No. 16B5.
Substitute Fourth Revised Sheet No. 46E.
Substitute Original Sheet No. 68D.
Substitute Original Sheet No. 68E.
Original Sheet No. 68F.

Columbia states that the foregoing traiff sheets relate to Columbia's July 1, 1988 filing in Docket No. RP88–207–000, et al., in which Columbia established procedures pursuant to Order No. 50 to recover from its customers the take-or-pay and contract reformation costs paid by Columbia to reform certain of its gas purchase contracts with Southwest producers. Specifically, Columbia proposes to:

(A) Revise section 26 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, pursuant to Ordering Paragraph (E) of the Federal Energy Regulatory Commission's July 29, 1988 Order in Docket No. RP88–207, et al. to clarify that the proposed volumetric surcharge for each year of the five-year amortization period reflects one-fifth of the amount allocated for volumetric surcharge recovery, plus levelized interest, divided by the volumetric determinants underlying Columbia's then-effective rates. The revised language clarifies that Columbia will not reflect any under-recoveries or over-recoveries from the prior year's amortization in any revised annual volumetric surcharge calculation; and

(B) Revise tariff sheets to reflect corrections of certain inadvertant clerical errors in certain base and deficiency period volumes reflected for Columbia's customers in the July 1, 1988 filing. The tariff sheets submitted with the instant filing reflect the revised allocation factors and Fixed Monthly Demand Surcharges resulting from the adjustments to the base and deficiency period volumes.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and to each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP88–207, et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 24, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–18934 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER88–387–000]

Consolidated Edison Co. of New York, Inc.; Filing

August 17, 1988.

Take notice that on July 5, 1988, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing additional exhibits relating to the filing, as an initial rate schedule, of an agreement to sell capacity to Long Island Lighting Company (LILCO). The agreement provides for a capacity charge of $75.00 per megawatt per day for 250 megawatts and an energy charge based upon incremental costs of generation.

Con Edison has heretofore requested waiver of the notice requirements of Section 35.3 of the Commission's regulations so that the Rate Schedule can be made effective as of April 28, 1988.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–18936 Filed 8–19–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–193–003]

Midwestern Gas Transmission Co.; Tariff Filing

August 17, 1988.

Take notice that on August 15, 1988, Midwestern Gas Transmission Company (Midwestern) hereby files ten copies of the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1988:

Fifteenth Revised Sheet No. 7
Second Revised Sheet No. 192

Midwestern states that this filing complies with the July 15, 1988, Commission Order in Docket No. RP88–193. Midwestern has filed Fifteenth Revised Sheet No. 7 and Second Revised Sheet No. 192 to reflect a thirty-six month amortization period consistent with Midwestern's election of a thirty-six month amortization period of Tennessee's Take-or-Pay Demand Surcharge.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-19003 Filed 8-19-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-34-004]

Northwest Alaskan Pipeline Co.; Petition For Clarification of Settlement

August 17, 1988.

Take notice that on August 8, 1988, United Gas Pipe Line Company (United) filed a petition for clarification of (1) certain terms of a settlement agreement (settlement), specifically, section 10 of the Twentieth Amending Contract and section 10 of the Tenth Amendment and (2) the Commission's orders issued February 26 and June 16, 1987 approving such settlement (38 FERC ¶ 61,214 and 39 FERC ¶ 61,302 (1987)). United states that the settlement relates to sales of Canadian gas by Pan-Alberta Gas Ltd. (Pan-Alberta) to Northwest Alaskan Pipeline Company (Northwest Alaskan), the resale of said gas by Northwest Alaskan to United, and the related provisions in Northwest Alaskan's tariff.

United requests that the Commission clarify whether the settlement and its orders accepting the settlement provide Pan-Alberta with the exclusive option during the term of the settlement to assume or assign United's purchase and capacity rights so as to foreclose United from also undertaking efforts to arrange a reasonable disposition of such rights to a third party. United states that clarification that Pan-Alberta does not have such exclusive rights would ensure that the settlement operates in a manner which is just and reasonable and in the public interest.

Any peson desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before August 24, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-18937 Filed 8-19-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-206-001]

Tarpon Transmission Co., Tariff Filing

August 17, 1988.

Take notice that on August 11, 1988, Tarpon Transmission Company ("Tarpon") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets:

Substitute Original Sheet No. 2A.
First Revised Sheet No. 2B.
Second Revised Sheet No. 35.
Second Revised Sheet No. 36.
Second Revised Sheet No. 50.
Second Revised Sheet No. 51.
First Revised Sheet No. 96A.

Tarpon states that the purpose of its tariff filing is to reinstate the one-part maximum and minimum comodity rates for Part 284 firm transportation service previously accepted by the Commission in lieu of the capacity reservation charge proposed by Tarpon on June 30, 1988, and effectively rejected by the Commission. Tarpon requests an effective date of July 1, 1988.

Tarpon states that copies of the filing were served upon all parties in Docket No. RP88-206-000.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 24, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant a party to the proceeding. Any person desiring to become a party must file a Motion to Intervene. Copies of their filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-18938 Filed 8-19-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-170-001]

Western Gas Interstate Co.; Filing of Corrected Tariff Sheets

August 17, 1988.

Take notice that Western Gas Interstate Company ("Western"), on August 12, 1988, tendered for filing certain changes to tariff sheets in its FERC Gas Tariff, First Revised Volume No. 1.

Western states that tariff sheets reflect: (1) Corrrections that are in compliance with the Commission's Order of July 8, 1988 in this proceeding regarding provisions to Western's new Purchased Gas Adjustment Clause provisions to the General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1 filed in compliance with the Commission's Order No. 483; and (2) corrections to minor typographic errors.

Copies of Western's filing were served on its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 24, 1988. Protests will be considered by the Commission in determining the apprpriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-18939 Filed 8-19-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals; Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $715,420.48 (plus accrued interest) obtained as a result of a consent order which the DOE entered into with MCO Holdings Inc. and its

wholly owned subsidiary, McCulloch Gas Processing Corporation. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration

DATE AND ADDRESS: Application for Refund from this consent order fund must be filed in duplicate and must be received by November 21, 1988. All applications should refer to Case Number KEF-0108 and should be addressed to: MGPC Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision related to a consent order entered into by the DOE and MCO Holdings Inc. (MCO) and its wholly-owned subsidiary, McCulloch Gas Processing Corporation (MGPC), which settles all matters regarding the firms' compliance with the Federal Petroleum Price and Allocation Regulations in its sales of natural gas liquids, natural gas liquid products and crude oil condensate during the period January 1, 1973, through the relevant decontrol date for each product (consent order period). A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the MGPC consent order fund was issued on June 8, 1988. 53 FR 22723 (June 17, 1988).

The Decision sets forth procedures and standards which the Office of Hearings and Appeals (OHA) of the DOE has formulated to distribute the MCO/MGPC consent order fund. The OHA has decided to accept Applications for Refund from firms and individuals that purchased natural gas liquids and natural gas liquid products sold by MCO/MGPC during the consent order period. Each claimant will be required to submit a schedule of its monthly purchases from MCO/MGPC. In addition, a reseller claimant, except for a firm that uses one of the presumptions of injury set forth in the Decision, will be required to make a detailed showing that it was injured by the firms' alleged overcharges. The specific information required in an Application for Refund is set forth in the following Decision and Order. Applications for Refund will now be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Date: August 16, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Name of Firm: MCO Holdings, Inc., MGPC, Inc.

Date of Filing: March 25, 1988.

Case Number: KEF–0108.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on March 25, 1988. In the Petition, the ERA requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a consent order between the DOE and MCO Holdings, Inc., and its wholly owned subsidiary MGPC, Inc., formerly McCulloch Gas Processing Corporation (collectively referred to hereinafter as MGPC).

I. Background

MGPC was a refiner and natural gas processor which produced and sold natural gas liquids (NGLs), natural gas liquid products (NGLPs), and crude oil condensate. On the basis of an audit of the firm's pricing practices, the ERA alleged that MGPC overcharged its customers in sales of NGLs, NGLPs, and crude oil condensate.

Subsequently, the DOE and MGPC entered into a consent order which settled all issues pertaining to MGPC's operations during the period January 1, 1973 through January 28, 1981 (the consent order period). Under the terms of the consent order, MGPC remitted $715,420.48 to the DOE for distribution through Subpart V. These funds are being held in an interest-bearing escrow account maintained by the Department of the Treasury pending a determination regarding their proper distribution.

On June 8, 1988, the OHA issued a Proposed Decision and Order (PD&O) which tentatively set forth procedures for the disbursement of the MGPC consent order fund. 53 FR 22723 (June 17, 1988). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of MGPC's pricing practices during the January 1, 1973 through January 28, 1981 consent order period. A copy of the PD&O was published in the **Federal Register** on June 17, 1988, and comments were solicited regarding the proposed refund procedures. We have received no comments regarding those procedures. This Decision sets forth final procedures for the distribution of the MGPC consent order funds.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (*Vickers*).

As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the MGPC consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Final Refund Procedures

Since we have not received any adverse comments regarding our proposed refund procedures, we have determined that those refund procedures should be adopted.

A. Consent Order Fund

The consent order fund will be distributed to customers of MGPC who were adversely affected by the firm's alleged overcharges. While the consent order states that it settles, *inter alia,* an enforcement proceeding involving MGPC's sales of crude oil condensate, for the following reasons the entire consent order amount will be made available for distribution to eligible MGPC, NGL, and NGLP purchasers. In the crude oil proceeding, a Remedial Order was issued to MGPC on February 16, 1983 in which the DOE found that the firm overcharged its customers by $124,310.81 in sales of crude oil

condensate.[1] See MGPC, Inc., 10 DOE ¶ 83,021 at 86,211 (1983). However, that Remedial Order was appealed to the Federal Energy Regulatory Commission, which vacated the Remedial Order and remanded the case to the OHA for further consideration. *See MGPC, Inc.*, 32 FERC ¶ 61,443 (1985). During the period subsequent to the remand and prior to the finalization of the consent order, no further action was taken by either party in that proceeding. Although the consent order does not state how the settlement amount was arrived at, according to the ERA, MGPC's alleged violations in sales of crude oil condensate were not taken into consideration in the negotiation of that amount. *See* Memorandum of April 12, 1988 telephone conversation between Jeffrey Whieldon, ERA staff attorney, and Chris Ashley, OHA staff analyst. Therefore, despite the fact that the remanded crude oil proceeding, Case No. KCK–0005, was resolved by the consent order, the consent order amount is based solely upon MGPC's alleged violations in sales of NGLs and NGLPs. We therefore make the entire consent order fund available to eligible MGPC, NGL, and NGLP purchasers.

B. Eligibility for Refunds

We will accept refund applications from purchasers of MGPC, NGLs, and NGLPs who can show that they were injured as a result of MGPCs pricing practices. The Appendix to this Decision lists the firms who were indentified in the ERA audit file as purchasers of MGPC, NGLs, and NGLPs during the period August 1973 through March 1975 (the audit period). Based upon this audit information, we expect that most eligible refund claimants will be resellers (including retailers and refiners) of MGPC, NGLs, and NGLPs. However, because the audit file does not contain an exhaustive list of all of MGPC's transactions and because the consent order period is much longer than the audit period, we will accept refund applications from any MGPC customer, including end-users (ultimate consumers) and regulated entities, who can show that it was injured as a result of MGPC's pricing practices.

In order to be eligible for a refund, each claimant will be required to submit a monthly schedule of its purchases of MGPC, NGLs, and NGLPs during the period June 13, 1973 through the relevant decontrol date for each product.[2] If the product was not purchased directly from MGPC, the claimant must explain why it believes that the product originated with MGPC.

In addition, a reseller claimant, except a firm that uses one of the two reseller presumptions of injury set forth below, will be required to make a detailed showing that it was injured by the alleged overcharges. This showing will generally consist of two distinct elements. First, the claimant will be required to show that it maintained "banks" of unrecouped increased product costs in excess of the refund claimed. Second, because a showing of banks alone is not sufficient to establish injury, the claimant must provide evidence that market conditions precluded it from increasing its prices to pass through the additional costs associated with the alleged overcharges. *See National Helium Corp./Atlantic Richfield Co.*, DOE ¶ 85,257 (1984), *aff'd sub nom. Atlantic Richfield Co. v. DOE*, 618 F. Supp. 1199 (D. Del. 1985). Such a showing could consist of a demonstration that the firm suffered a competitive disadvantage as a result of its purchases from MGPC. *id.*

1. *End-users.* As in many other refund proceedings, we will adopt the presumption that end-users or ultimate consumers of MGPC, NGLs, and NGLPs whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges covered by the consent order. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983). Therefore end-users of MGPC, NGLs, and NGLPs need only document their purchase volumes from MGPC during the regulatory period to make a sufficient showing that they were injured by the alleged overcharges.

2. *Regulated Firms.* In order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a government agency, e.g., a public utility, or by the terms of a cooperative agreement, needs only to submit documentation of purchase volumes used by itself, or in the case of a cooperative, sold to its members. However, a regulated firm or cooperative will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of its receipt of the refund. *See Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,515 (1986); *Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). This latter requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers through the operation of automatic adjustment mechanisms. Similarly, any refund received would be passed through to its customers. With respect to a cooperative, in general, the applicable cooperative agreement would ensure that the alleged overcharges and similarly, refunds would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.

3. *Applicants Seeking Refunds of $5,000 or Less.* We will adopt a presumption that a firm who resold MGPC, NGLs, and NGLPs and requests a refund of $5,000 or less was injured by the alleged overcharges. Making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of product from MGPC. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banked costs, or that they did not pass through the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. Therefore, any reseller claiming a refund of $5,000 or less need only document its purchase volumes in order to be eligible to receive a refund.

4. **Medium-Range Claimants.** In lieu of making a detailed showing of injury, a reseller claimant whose allocable share

[1] Crude oil condensate, a group of heavy hydrocarbons separable from a wet natural gas stream, was treated as crude oil under the DOE price regulations. *See* Ruling 1975–18, 2 Fed. Energy Guidelines ¶ 16,058 at 16,657.

[2] Applicants are only eligible to receive refunds based upon NGLs and NGLPs purchased during the period in which each product was subject to federal price controls. Therefore, an applicant will not be eligible to receive a refund based upon butane and natural gasoline purchased after December 31, 1979, or ethane purchased after March 31, 1974. *See Gulf Oil Corp./E.I. du Pont de Nemours*, 14 DOE ¶ 85,027 (1986). In addition, although the consent order period begins January 1, 1973, the relevant period for the determination of refunds begins June 13, 1973, the effective date of the Cost of Living Council Freeze Regulations, 28 FR 15768 (June 15, 1973).

of the consent order fund exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 60 percent of its allocable share up to $50,000. The use of this presumption reflects our conviction that these claimants were likely to have experienced some injury as a result of the alleged overcharges. In other cases involving NGLs and NGLPs, we have determined that a 60 percent presumption for medium-range purchasers of those products accurately reflected the amount of their injury as a result of those purchasers. *See Sauvage Gas Co.*, 17 DOE ¶ 85,304 (1988); *Suburban Propane Gas Corp.*, 16 DOE ¶ 85,382 (1987). For the reasons set forth in those Decisions, we have established a 60 percent presumptive level of injury for medium-range claimants in this proceeding. Consequently, a claimant in this group will only be required to provide documentation of its purchase volumes of MGPC, NGLs, and NGLPs in order to be eligible to receive a refund of 60 percent of its total volumetric share.

5. *Spot Purchasers.* We also will adopt the rebuttable presumption that resellers which made only spot purchases of MGPC products, even those claiming refunds below the small claims threshold, were not injured by the alleged overcharges. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of MGPC product at increased prices unless they were able to pass though the full amount of the overcharges to their own customers. *See Vickers*, 8 DOE at 88,396–7. Accordingly, any spot purchaser claimant must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).[3]

C. Calculation of Refund Amounts

We will use a volumetric method to apportion the MGPC escrow account. This method is based upon the presumption that the alleged overcharges were spread equally over all gallons of NGLs and NGLPs sold by MGPC during the regulatory period. Use of this presumption promotes efficiency, both for the applicants preparing claims and for the agency, and, in the absence of better information, it is reasonable because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.[4]

Under the volumetric approach, a claimant will be eligible to receive a refund equal to the number of gallons of MGPC, NGLs, and NGLPs that it purchased during the period June 13, 1973 through the appropriate date of decontrol of each product multiplied by $0.00133, the per gallon volumetric refund amount for this proceeding. We derived this figure by dividing the $715,420.48 received from MGPC by the total volume of NGLs and NGLPs sold by the firm during the regulatory period.[5] In addition, a portion of the interest which has accrued on the consent order fund since its remittance to the DOE will be added to the refund of each successful claimant in proportion to the size of its refund.

As in previous cases, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims of $15 or less outweights the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

IV. Distribution of Funds Remaining after Consideration of All Refund Applications

Any funds that remain after all refund applications have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge and Distribution Act of 1986 (PODRA), 15 U.S.C.A. 4501–4507. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. PODRA section 4502(c) and (d). The Secretary has delegated these responsibilities to the OHA, and any funds in the MGPC consent order escrow account that the OHA determines will not be needed to effect direct restitution to injured MGPC customers will be distributed in accordance with the provisions of PODRA.

V. Applications For Refund

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the MGPC consent order fund. Accordingly, we will now accept Applications for Refund from purchasers of NGLs and NGLPs from MGPC between June 13, 1973 through the applicable decontrol date. There is no official application form. Applications for Refund should be written or typed on business letterhead or personal stationery. The following information should be included on all Applications for Refund:

(1) A conspicuous reference to "MGPC Refund Proceeding—Case No. KEF–0108" and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the refund check should be sent.

(2) The name, title, and telephone number of a person who may be contacted for additional information concerning the Application.

(3) The manner in which the applicant used the MGPC product, e.g., whether the applicant was a refiner, wholesaler, reseller, retailer or ultimate consumer.

(4) Monthly schedules of the applicant's purchases of each NGL or NGLP that it purchased from MGPC from June 13, 1973 through the date of decontrol of that product (see footnote 2). The applicant must indicate the source of this volume information and, if estimates were used, the estimation method must be explained.

(5) The applicant must state whether it was supplied directly or indirectly by MGPC. If the applicant was an indirect purchaser, it must submit the name and address of its immediate supplier and indicate why it believes that the covered product originated from MGPC.

(6) If the applicant is a reseller or retailer whose allocable share exceeds $5,000, it must indicate whether it elects to receive as its refund the larger of $5,000 or 60 percent of its allocable share up to $50,000. If it does not elect to use the presumptions, it must submit a detailed showing that it was injured by the alleged overcharges.

(7) A statement whether the applicant, or a related firm has filed, or authorized an individual to file on its behalf any other refund application in the MGPC

[3] In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrate that (i) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases; and (ii) they were forced by market conditions to resell the product at a loss that was not subsequently recouped. *See Quaker State Oil Refining Corp./Certified Gasoline Co.*, 14 DOE ¶ 85,465 (1986).

[4] Because we realize that the impact on an individual claimant may have been greater than its full volumetric share, a claimant may submit evidence detailing the specific overcharge that it allegedly incurred in order to be eligible for a large refund. *See Standard Oil Co./Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

[5] Based upon the information contained in the MGPC audit file, we estimate that the firm sold approximately 536 million gallons of NGLs and NGLPs in the period during which each of those products was controlled. We arrived at this estimate by extrapolating detailed sales volume information compiled by the ERA during its audit of MGPC. Accounding to MGPC, the firm's sales volumes during the audit period are representative of the firms's sales volumes throughout the entire consent order period.

proceeding, and if so, an explanation of the circumstances surrounding the filing or authorization.

(8) If the applicant is, or was entirely or partly owned by MCO Holdings, or its entirely owned subsidiary, MGPC, it must explain the nature of the affiliation.

(9) If the applicant has been involved in an enforcement proceeding brought by DOE or private action under section 210 of the Economic Stabilization Act of 1970, it should describe the action and its current status. If the applicant is party to any such action that is no longer pending, it should indicate how that action was resolved. The applicant must keep the OHA informed of any change in status during the pendency of its Application for Refund.

The Application should also contain the following statement signed by the individual applicant or a responsible official of the business or organization applying for a refund:

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both pursuant to 18 U.S.C. 1001. I understand that the information contained in this entire application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA public reference room.

All Applications should be sent to: MGPC Special Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All Applications must be filed in duplicate and postmarked no later than 90 days after the publication of this Decision and Order in the **Federal Register.** Any applicant who believes its Application contains confidential information must so indicate on the first page of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by MGPC pursuant to the Consent Order finalized on September 11, 1986, may now be filed.

(2) All Applications must be filed no later than 90 days after the publication of this Decision and Order in the **Federal Register.**

Date: August 16, 1988.

George Breznay,

Director, Office of Hearings and Appeals.

Appendix—Identified Purchasers of MGPC NGLs and NGLPs

Arrow Gas Service, P.O. Box 530, Upton, WY 82701

Atlantic Richfield Company, Attn: Michael B. Green, Legal, P.O. Box 2679–T.A., Los Angeles, CA 90051

Black Hills Oil Marketers, Eighty-eight Oil Co., Attn: Dwain Park, P.O. Drawer 2360, Casper, WY 82602

Butane Power & Equipment Co., Attn: John Edmonson, P.O. Box 2639, Casper, WY 82602

Cal Gas, UGI, Attn: Robert Knauss, Box 858, Valley Forge, PA 19482

Conoco, Inc., Attn: Janet S. Nelson, Legal Dept., P.O. Box 2197

Farmers Union Central Exchange, Inc., Attn: Robert E. Plett, Washington Office, 1745 Jefferson Davis Hwy., Suite 404, Arlington, VA 22202

Fuel Distributors, Inc., P.O. Box 6117, Temple, TX 76503–6117

McPherson Propane, P.O. Box 126, Sturgis, SD 57785

Murphy Oil Co., Inc., Highway 99, P.O. Box 145, Olpe, KS 66865

Montana-Dakota Utilities Co., MDU Resources Group, Inc., Attn: Lester H. Lowle II, 400 N. Fourth St., Bismark, ND 58501

Petrolane, Inc., Petrolane Gas Services, Inc., Attn: E.R. Milligan, P.O. Box 1410, Long Beach, CA 90801

[FR Doc. 88–19004 Filed 8–19–88; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59262A; FRL–3432–6]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–88–15. The test marketing conditions are described below.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Robert Wright, III, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, DC 20460, (202–382–7800).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–88–15. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–88–15:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. During manufacturing, processing, and use of the substance at any site controlled by the Company, any person under the control of the Company, including employees and contractors, who may be dermally exposed to the substance shall use:

a. Gloves determined by the Company to be impervious to the substance under the conditions of exposure, including the duration of exposure. The Company shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation by the PMN substance and associated chemical substances;

b. Clothing which covers any other exposed areas of the arms, legs, and torso; and

c. Chemical safety goggles or equivalent eye protection.

3. The Company must affix a label to each container of the substance or formulations containing the substance. The label shall include, at a minimum, the following statement: WARNING: Contact with skin may be harmful. Chemicals similar in structure to (insert appropriate name) have been found to cause liver toxicity, kidney toxicity, and neurotoxicity. To protect yourself, you must wear protective gloves, clothing, and goggles.

4. The applicant shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the labels affixed to containers of the substance or formulations containing the substance.

d. Copies of the bill of lading that accompanies each shipment of the substance.

e. Copies of any determination under paragraph 2.a. above that the protective gloves used by the Company are impervious to the substance.

T-88-15

Date of Receipt: July 1, 1988.

Notice of Receipt: August 2, 1988 (53 FR 29086).

Applicant: R.T. Vanderbilt Company, Inc.

Chemical: (G) Tolutriazole compound.

Use: Antioxidant for hydraulic oil system.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: One year, commencing on first day of manufacture.

Risk Assessment: EPA identified concerns for liver toxicity, kidney toxicity, neurotoxicity, severe skin irritation, mild eye irritation, and chronic toxicity based on an analogous chemical substance. However, during manufacturing, processing, and use, inhalation exposure to workers is not expected and dermal exposure to workers will be prevented by protective gloves, clothing, and goggles. Therefore, the test market substance will not present any unreasonable risk of injury to health. EPA identified no significant environmental concerns for the test market substance. Therefore, the test market substance will not present any unreasonable risk of injury to the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 12, 1988.

Wendy Cleland-Hamnett,

Deputy Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 88-18954 Filed 8-19-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51710; FRL-3433-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of one hundred five such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 88-1159, 88-1160, July 6, 1988.

P 88-1616, September 24, 1988.

P 88-1617, September 25, 1988.

P 88-1618, 88-1619, 88-1620, 88-1621, 88-1622, 88-1623, September 24, 1988.

P 88-1624, 88-1625, 88-1626, 88-1627, 88-1628, 88-1629, 88-1630, 88-1631, 88-1632, September 25, 1988.

P 88-1633, September 17, 1988.

P 88-1634, 88-1635, 88-1636, September 26, 1988.

P 88-1637, 88-1638, 88-1639, 88-1640, 88-1641, September 28, 1988.

P 88-1642, 88-1643, 88-1645, 88-1646, 88-1647, 88-1648, 88-1649, 88-1650, 88-1651, October 2, 1988.

P 88-1652, 88-1653, 88-1654, October 3, 1988.

P 88-1656, 88-1657, 88-1658, 88-1659, 88-1660, October 4, 1988.

P 88-1661, 88-1662, 88-1663, 88-1664, 88-1665, 88-1666, 88-1667, 88-1668, 88-1669, 88-1670, 88-1671, October 5, 1988.

P 88-1672, 88-1673, October 8, 1988.

P 88-1674, October 9, 1988.

P 88-1675, October 10, 1988.

P 88-1676, 88-1677, 88-1678, 88-1679, 88-1680, 88-1681, 88-1682, 88-1683, 88-1684, 88-1685, October 9, 1988.

P 88-1686, 88-1687, October 10, 1988.

P 88-1688, October 16, 1988.

P 88-1689, 88-1690, 88-1691, 88-1692, 88-1693, October 10, 1988.

P 88-1694, 88-1695, 88-1696, October 11, 1988.

P 88-1697, 88-1698, October 12, 1988.

P 88-1699, October 15, 1988.

P 88-1700, 88-1701, 88-1702, 88-1703, 88-1704, October 16, 1988.

P 88-1705, October 17, 1988.

P 88-1706, 88-1707, 88-1708, 88-1709, 88-1710, 88-1711, October 16, 1988.

P 88-1712, 88-1713, October 18, 1988.

P 88-1714, 88-1715, 88-1716, 88-1717, October 19, 1988.

P 88-1718, October 22, 1988.

P 88-1719, October 19, 1988.

P 88-1720, October 22, 1988.

Written comments by:

P 88-1159, 88-1160, June 6, 1988.

P 88-1616, August 25, 1988.

P 88-1617, August 26, 1988.

P 88-1618, 88-1619, 88-1620, 88-1621, 88-1622, 88-1623, August 25, 1988.

P 88-1624, 88-1625, 88-1626, 88-1627, 88-1628, 88-1629, 88-1630, 88-1631, 88-1632, August 26, 1988.

P 88-1633, August 18, 1988.

P 88-1634, 88-1635, 88-1636, August 27, 1988.

P 88-1637, 88-1638, 88-1639, 88-1640, 88-1641, August 29, 1988.

P 88-1642, 88-1643, 88-1645, 88-1646, 88-1647, 88-1648, 88-1649, 88-1650, 88-1651, September 2, 1988.

P 88-1652, 88-1653, 88-1654, September 3, 1988.

P 88-1656, 88-1657, 88-1658, 88-1659, 88-1660, September 4, 1988.

P 88-1661, 88-1662, 88-1663, 88-1664, 88-1665, 88-1666, 88-1667, 88-1668, 88-1669, 88-1670, 88-1671, September 5, 1988.

P 88-1672, 88-1673, September 8, 1988.

P 88-1674, September 9, 1988.

P 88-1675, September 10, 1988.

P 88-1676, 88-1677, 88-1678, 88-1679, 88-1680, 88-1681, 88-1682, 88-1683, 88-1684, 88-1685, September 9, 1988.

P 88-1686, 88-1687, September 10, 1988.

P 88-1688, September 16, 1988.

P 88-1689, 88-1690, 88-1691, 88-1692, 88-1693, September 10, 1988.

P 88-1694, 88-1695, 88-1696, September 11, 1988.

P 88-1697, 88-1698, September 12, 1988.

P 88-1699, September 15, 1988.

P 88-1700, 88-1701, 88-1702, 88-1703, 88-1704, September 16, 1988.

P 88-1705, September 17, 1988.

P 88-1706, 88-1707, 88-1708, 88-1709, 88-1710, 88-1711, September 16, 1988.

P 88–1712, 88–1713, September 18, 1988.

P 88–1714, 88–1715, 88–1716, 88–1717, September 10, 1988.

P 88–1718, September 22, 1988.

P 88–1719, September 19, 1988.

P 88–1720, September 22, 1988.

ADDRESS: Written comments, identified by the document control number "(OPTS–51710)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street, SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 88–1159

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyurethane thermoplastic resin.

Use/Production. (S) Molding of plastic articles. Prod. range: Confidential.

P 88–1160

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyurethane thermoplastic resin.

Use/Production. (S) Molding of plastic articles. Prod. range: Confidential.

P 88–1616

Manufacturer. Confidential.

Chemical. (G) Carboxylated novolak acrylate.

Use/Production. (G) Radiation-curable coatings. Prod. range: Confidential.

P 88–1617

Manufacturer. Arizona Chemical Company.

Chemical. (G) Terpene resin.

Use/Production. (G) Chewing gum base resin for additional use in adhesives. Prod. range: Confidential.

P 88–1618

Importer. Confidential.

Chemical. (G) Alkoxysilyl organotin compound.

Use/Import. (S) Hardening catalyst for industrial coatings. Import range: Confidential.

Toxicity Data. Skin irritation: strong species (Rabbit). Mutagenicity: negative.

P 88–1619

Importer. Confidential.

Chemical. (G) Alkoxysilyl organotin compound.

Use/Import. (S) Hardening catalyst for industrial coatings. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD 50>2,000 mg/kg species(Rat). Acute dermal doxicity: LD50>2 mg/kg species(Rabbit). Eye irritation: Slight species(Rabbit). Skin irritation: Slight species(Rabbit). Mutagenicity: negative.

P 88–1620

Importer. Confidential.

Chemical. (G) Silane coupling agent.

Use/Import. (S) Coupling agent for industrial coatings. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50>2,000 mg/kg species(Rabbit). Acute dermal toxicity: LD50>2ml/kg. Eye irritation: Slight species(Rabbit). Skin irritation: Slight species(Rabbit). Mutagenicity: negative.

P 88–1621

Importer. Confidential.

Chemical. (G) Silane coupling agent.

Use/Import. (S) Coupling agent for industrial coatings. Import range: Confidential.

Toxicity Data. Eye irritation: Strong species(Rabbit). Mutagenicity: negative.

P 88–1622

Importer. Confidential.

Chemical. (G) Silane coupling agent.

Use/Import. (S) Coupling agent for industrial coatings. Import range: Confidential.

Toxicity Data. Eye irritation: Strong species(Rabbit). Mutagenicity: negative.

P 88–1623

Manufacturer. Arizona Chemical Company.

Chemical. (G) Polyterpene resin.

Use/Production. (G) Resin for use in adhesives; open, nondispersive use nondispersive. Prod. range: Confidential.

P 88–1624

Manufacturer. Confidential.

Chemical. (G) Alkylheteromonocyclic derivatives of Dialkyl-dihalo-heteropolycyclicphenodioxazine.

Use/Production. (S) Paper dye intermediate used in further manufacture of dye. Prod. range: Confidential.

P 88–1625

Importer. Confidential.

Chemical. (G) Modified polyacrylic acid.

Use/Import. (S) Dispersant. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50>10,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 88–1626

Manufacturer. Lithium Corporation of America.

Chemical. (G) Compositions of methyllithium and dimethylmagnesium.

Use/Production. (S) Methylating agent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,400 mg/kg species (Rat). Acute dermal toxicity: LD50 12.3 ml/kg species (Rabbit). Inhalation toxicity: LC50 39,000 mg/m3 species (Rat). Skin irritation: moderate species (Rabbit).

P 88–1627

Manufacturer. Lithium Corporation of America.

Chemical. (G) Composition of lithium diisopropylamide and magnesium bis-diisopropylamide.

Use/Production. (S) Reagent for pharmaceutical & agricultural products synthesis. Prod. range: Confidential.

P 88–1628

Manufacturer. Confidential.

Chemical. (G) Di(substituted) alkyl hydrogen acid phosphite.

Use/Production. (G) Petroleum product additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50>2 g/kg species (Rat). Skin irritation: Slight species (Rabbit).

P 88–1629

Importer. Mitsubishi International Corporation.

Chemical. (S) Caster oil, hydrogenated, ethoxylated, trilaurate.

Use/Import. (S) Emulsifier of spinfinish for polyester filament yarn. Import range: 500–5,000 kg/yr.

P 88–1630

Importer. Confidential.

Chemical. (G) Acrylic silicon polymer.

Use/Import. (S) Raw material coatings. Import range: 500–1,000,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Eye

irritation: Moderate species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 88–1631

Importer. Confidential.
Chemical. (G) Acrylic silicon polymer.
Use/Import. (S) Raw material coatings. Import range: 500–1,000,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: Negative.

P 88–1632

Importer. Confidential.
Chemical. (G) Acrylic silicon polymer.
Use/Import. (S) Raw material coatings. Import range: 500–1,000,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Eye irritation: Moderate species (Rabbit). Skin irritation: Slight species (Rabbit). Mutagenicity: Negative.

P 88–1633

Importer. Tonen Petrochemical Co., Ltd.
Chemical. (G) Isomeric mixture of diphenylbutanes.
Use/Import. (S) A dye solvent for carbonless copy paper. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>5,000 mg/kg species (Rat). Eye irritation: Slight species (Rabbit). Skin irritation: Moderate species (Rabbit). Mutagenicity: Negative.

P 88–1634

Manufacturer. Eastman Kodak Company.
Chemical. (G) Substituted malononitrile.
Use/Production. (G) Chemical intermediate. Prod. range: 9,000 kg/yr.

P 88–1635

Manufacturer. Eastman Kodak Company.
Chemical. (G) N-substituted benzenesulfonamide.
Use/Production. (G) Chemical intermediate. Prod. range: 14,000 kg/yr.
Toxicity Data. Eye irritation: Moderate species (Rabbit). Skin irritation: Slight species (guine pig).

P 88–1636

Manufacturer. The Dow Chemical Company.
Chemical. (G) Aromatic/aliphatic polyurea polyamine.
Use/Production. (G) Elastomer additive. Prod. range: Confidential.

P 88–1637

Manufacturer. Confidential.
Chemical. (G) (heteropolycyclic)heteropolycyclicsulfonamide potassium salt.
Use/Production. (S) Organic synthesis intermediate. Prod. range: 1,000–3,000 kg/yr.

P 88–1638

Manufacturer. Confidential.
Chemical. (G) Di(heteropolycyclicsulfonamido)heteropolycyclic.
Use/Production. (G) Contained use in consumer product. Prod. range: 1,000–3,000 kg/yr.

P 88–1639

Manufacturer Confidiential.
Chemical. (G) (Heteropolycyclic)heteropolycyclicsulfonamide.
Use/Production. (s) Organic synthesis intermediate. Prod. range: 1,000–3,000 kg/yr.

P 88–1640

Importer. Confidential.
Chemical. (G) Heteropolycyclic sulfonamide.
Use/Import. (S) Organic synthesis intermediate. Import range: 1,000–2,000 kg/yr.

P 88–1641

Importer. Hitachie Chemical Company.
Chemical. (G) Tricyclodecyl methacrylate acrylic copolymer.
Use/Import. (S) Molding material for optical components. Import range: 900–9,000 kg/yr.
Toxicity Data. Mutagenicity: Negative.

P 88–1642

Manufacturer. 3M (the Mining and Manufacturing Company).
Chemical. (G) Perfluoroalkyl substituted acrylate polymer.
Use/Production. (G) Soil and stein repellent surface treatment. Prod. range: confidential.
Toxicity Data. Skin irritation: slight species (Rabbit). Mutagenicity: Negative. Skin sensitization: negative species (Guinea pig).

P 88–1643

Importer. Reichhold Chemicals, Inc.
Chemical. (G) Polyurethane.
Use/Import. (S) General laminating adhesive. Import range: Confidential.

P 88–1645

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polyurethane thermoplastic resin.
Use/Production. (S) Extrusion and injection molding of plastic article for use in chemical processing and automotive ind. Prod. range: Confidential.

P 88–1646

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polyurethane thermoplastic resin.
Use/Production. (S) Extrusion and injection molding of plastic article for use in processing and automative industries. Prod. range: Confidential.

P 88–1647

Manufacturer. Confidential.
Chemical. (G) Branched hydrocarbon.
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 88–1648

Manufacturer. Confidential.
Chemical. (G) Branched hydrocarbon.
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 88–1649

Manufacturer. Confidential.
Chemical. (G) Substituted phthalocyanine.
Use/Production. (G) Nondispersive use in a formulation. Prod. range: 800–2900 kg/yr.
Toxicity Data. Acute dermal toxicity: LD50 >2000 MG/KG species (Rat). Eye irritation: Modernate species (Rabbit). Skin irritation: Slight species (Rabbit).

P 88–1650

Manufacturer. Confidential.
Chemical. (G) Citric acid polyester, mono-, and triesters.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 88–1651

Importer. Confidential.
Chemical. (G) Chromium, substituted hetermonocycle azo substituted phenol, substituted sulfohetermonocycle azo substituted phenol, salt, complex.
Use/Import. (G) Open, nondispersive. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >2,000 mg/kg species (Rat). Skin irritation: Negligible species (Rabbit). Skin sensitization: Negative species (Rabbit).

P 88–1652

Importer. Em Science.
Chemical. (G) (None; chemical identify is not being claimed as confidential).

Use/Import. (S) An enzyme for isolation of high molecular weight nucleic acids. Import range: Confidential.

Toxicity Data. Skin irritation: Negligible species (Rabbit). Mutagenicity: Negative.

P 88–1653

Manufacturer. Confidential.

Chemical. (G) Phosphoric acids, partially esterfied, alkamine salts.

Use/Production. (S) Leather finishing. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >10 g/kg species (Rat).

P 88–1654

Manufacturer. Confidential.

Chemical. (G) Acid catalyzed reaction product of alkylidene bicycloalkene with alkyl alcohol.

Use/Production. (S) Site-limited intermediate for chemical production. Prod. range: Confidential.

P 88–1656

Importer. Confidential.

Chemical. (G) Polymer of: Aliphatic diisocyanate and a poly (oxyalkylene) polyal per submitter 7/7/88.

Use/Importer. (S) One component moisture-curing polyisocyanate for sealants. Import range: 250–2, 800 kg/yr.

P 88–1657

Importer. C. I. Specialty Chemicals, Inc.

Chemical. (G) Urethaner prepolymer (isophorone diisocyanate, hexamethylene carbonate diol, hydroxy pivalic acid neopentylgyl ester, hydroxy propyl acrylate).

Use/Import. (S) UV-curable varnish and adhesive.

Import range: 500–1,200 kg/yr.

P 88–1658

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate power coating curing agent.

Use/Production. (S) Power coating curing agent. Prod. range. Confidential.

P 88–1659

Manufacturer. Sybron Chemicals Inc.

Chemical. (G) Copolymer of aliphatic of 2-propenoic acid with homocyclic aromatic vinly compounds, reaction production with alphatic polyamine.

Use/Production. (G) Aqueous and non-aqueous waste and process water purification. Prod. range: Confidential.

P 88–1660

Importer. Mitsui and Co. (U.S.A.), Inc.

Chemcial. (G) Spiro (isobenzofuran–1 (3h) ,9'-(9h)-xathen)-3-one, 6'-(dibutylamino)-3'-methyl-2'-(phenylamino)-.

Use/Import. (S) Color precursor for heat sensitive paper. Import range: 25,000–100,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >10 g/kg species (Rat). Acute dermal toxicity; LD50 >10g/kg species (Rabbit). Eye irritation: None species (Rabbit). Skin irritation: Negligible species (<Rabbit). Mutagenicity: Negative. Skin sensitization: Negative species (Guinea pig).

P 88–1661

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane terminated polyether polymer.

Use/Production. (S) Polymer for adhesives and sealants. Prod. Range: 200,000–750,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat).

P 88–1662

Importer. Confidential.

Chemical. (G) Fatty acids esters with glycol.

Use/Import. (S) Detegent for fine fabrics. Import range: Confidential.

P 88–1663

Importer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Acrylic lactone co-polymer.

Use/Import. (g) Open, nondispersive, Import range: Confidential.

P 88–1664

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemcial. (G) Substituted acetonitrile.

Use/Production. (S) Site-limited intermediate. Prod. Range: Confidential.

Toxicity Data. Eye irritation: Slight species (Rabbit). Skin irritation: Slight species (Rabbit). Mutagenicity: Negative.

P 88–1665

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Disubstituted heterocycle.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

P 88–1666

Manufacturer. E.I. du Pont de Nemours & Co., Inc

Chemcial. (G) Disubstituted heterocycle.

Use-Production. (S) Site-limited intermediate. Prod. range. Confidential.

P 88–1667

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Disubstituted heterocycle.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 88–1668

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Disubstituted heterocycle.

Use/Production. (G) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Eye irritation: Slight species (Rabbit). Skin irritation: Negligible species (Rabbit). Mutagenicity: Negative.

P 88–1669

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemcial. (G) Disubstituted heterocycle-salt.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Eye irritation: strong species (Rabbit). Skin irritation: Moderate species (Rabbit). Mutagenicity: Negative.

P 88–1670

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemical. (G) Disubstituted 2,4-pentadienenitrile.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Eye irritation: strong species (Rabbit). Skin irritation: Slight species (Rabbit). Mutagenicity: Negative.

P 88–1671

Manufacturer. E.I. du Pont de Nemours & Co., Inc.

Chemcial. (G) Substituted acetonitrile.

Use/Production. (S) Site-limited intermediate. Prod range: Confidential.

Toxicity Data. Eye irritation: Moderate species (Rabbit). Skin irritation: Slight species (Rabbit). Mutagenicity: Negative.

P 88–1672

Manufacturer. Confidential.

Chemical. (G) Alkoxylated dialkyl-diethylene triamine, alkyl sulfate salt.

Use/Production. (S) Textile finishing agent. Prod. range: 13,500–45,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (Rat).

P 88–1673

Importer. Orient Chemcial Corporation.

Chemical. (G) Bis azo triarylmethane.

Use/Import. (S) Oil base ink. Import range: 1,000–3,000 kg/yr.

P 88–1674

Importer. Rembrandtin USA, Inc.
Chemical. (G) Water soluble phenol formaldehyde resin.
Use/Import. (S) Varnish intermediate for electrical. Import Range: Confidential.

P 88–1675

Importer. Rembrandtin USA, Inc.
Chemical. (G) Water soluble phenol formaldehyde resin.
Use/Import. (S) Varnish intermediate for electrical grade street. Import Range: Confidential.

P 88–1676

Importer. E.I. Dupont De Neumours & Co., Inc.
Chemical. (G) Acrylic lactone copolymer.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 88–1677

Importer. Hoechst Celanes Corporation.
Chemical. (G) Heterocyclic substituted sulfon amide.
Use/Import. (S) Additive for pigments. Import range: 20,000–30,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 >169 g/kg species (Mice). Mutagenicity: Negative.

P 88–1678

Manufacturer. Confidential.
Chemical. (G) Acid catalyzed reaction product of alkelidene bicyucloalkene with alkyl alcohol — hydrogenated.
Use/Import. (S) Fragrance component, open use. Prod. range: Confidential.

P 88–1679

Importer. Nuodex Inc.
Chemical. (G) Unsaturated hydrocarbon resin from cyclooctane.
Use/Import. (S) Coatings. Import range: 10,000–200,000 kg/ yr.
Toxicity Data. Acute oral toxicity: LD50>3,000 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: Negligible species (Rabbit).

P 88–1680

Manufacturer. American Hyperform, Inc.
Chemical. (G) Silica filled polysiloxane.
Use/Production. (G) Transpalent Abrasive resistant coating. Prod. range: Confidential.

P 88–1681

Manufacturer. Confidential.
Chemical. (G) Alkoxylated glycol ether.
Use/Production. (G) Coatings. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 6,400 mg/kg species (Rat).

P 88–1682

Importer. Confidential.
Chemical. (G) Carbopolycyclicolazo-alkylaminoalkylcarbomomocyclic ester, halogen acid salt.
Use/Import. (S) Paper dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (Rat). Static acute toxicity: LC50>1.8 mg/1 time 96 h species (Rainbow trout). Eye irritation: Strong species (Rabbit). Mutagenicity: Negative.

P 88–1683

Manufacturer. Fairmont Chemical Co., Inc.
Chemical. (G) Phenythiourea.
Use/Production. (S) Intermediate. Prod. range: Up to 1,000 kg/yr.

P 88–1684

Manufacturer. Confidential.
Chemical. (G) Acid functional substituted aromatic polyether.
Use/Production. (G) Specialty coating; open use. Prod. range: 15,000–75,000 kg/ yr.

P 88–1685

Importer. Ferro Corporation-Bedford Chemical Div.
Chemical. (G) Perchlorate compound.
Use/Import. (S) Plastic stablizer. Import range: 13,000–25,000 kg/yr.

P 88–1686

Importer. Confidential.
Chemical. (G) Dialkylheteroplycyclic-azocarbomono cyclic-dial kylamine, alkylsulfate.
Use/Import. (S) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD 1800 mg/kg species (rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (rat). Eye irritation: Strong species (Rabbit). Skin irritation: Moderate species (Rabbit).

P 88–1687

Manufacturer. Confidential.
Chemical. (G) Alkoxysilane terminated polyether polymer.
Use/Production. (S) Adhesive, sealant coating. Prod. range: 200,000–756,000 kg/ yr.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (rat).

P 88–1688

Importer. Goldscchmidt Chemical Corporation
Chemical. (S) Siliconacrylate.
Use/Import. (G) Coating. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2117 mg/kg species (Rat). Eye irritation: None species (Rabbit). Skin irritation: Negligible species (Rabbit).

P 88–1689

Manufacturer. Confidential.
Chemical. (G) Unsaturated aliphatic ester.
Use/Production. (G) Coating. Prod. range: 20,000–100,000 kg/yr.

P 88–1690

Manufacturer. Confidential.
Chemical. (G) Alkoxylated ether acrylate.
Use/Production. (G) Coatings, inks, Prod. range: Confidential.

P 88–1691

Manufacturer. Confidential.
Chemical. (G) Alkyl ether acrylate.
Use/Production. (G) Coatings, inks. Prod. range: Confidential.

P 88–1692

Manufacturer. E.I. Dupont De Neumours & Co., Inc.
Chemical. (G) Acrylic polymer
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 88–1693

Importer. Dow Corning Corporation.
Chemical. (G) Silicic acid, tetraethyl ester reaction products with disiloxane, hexamethyl, and disiloxane, 1,3-dietheny 1-1,1,3,3-tetramethyl.
Use/Import. (S) Adhesive, coating, Import range Confidential.

P 88–1694

Manufacturer. Ciba-Geigy Corporation.
Chemical. (G) 2-Bromomethy 1-1,3-dioxolane.
Use/Production. (S) Site-limiting intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 117 mg/kg species (Rat). Acute dermal toxicity: LD50 319 mg/kg species (Rabbit). Inhalation toxicity: LC50 0.8 mg/l species (Rat). Eye irritation: None species (Rabbit). Skin irritation: Negligible species (Rabbit). Mutagenicity: Negative.

P 88–1695

Importer. Raschig Corporation.
Chemical. (G) Sulfoalkylated polyalkoxylated naphthol, alkali-salt or -sulfoalkyl-napathyl-alkylenglycol.
Use/Import. (G) Electroplating. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 10,000 mg/kg species (Rat).

P 88–1696

Manufacturer. Daicel (U.S.A.), Inc.

Chemical. (G) Photo-sensitive direct emulsion

Use/Production. (S) Photo-sensitive emulsion. Prod. range: 1,440-7,200 kg/yr.

P 88-1697

Manufacturer. Confidential.

Chemical. (G) Quaternary salt.

Use/Production. (S) Monomer. Prod. range: 28,000-42,000 kg/yr.

P 88-1698

Manufacturer. Confidential.

Chemical. (G) Quaternary salt.

Use/Production. (S) Monomer. Prod. range: 2,000-3,000 kg/yr.

P 88-1699

Manufacturer. Confidential.

Chemical. (G) Alkyl alkanolamine salts.

Use/Production. (S) Gas scrubbing solution (additive). Prod. range: Confidential.

P 88-1700

Manufacturer. Confidential.

Chemical. (S) Amides from dibasic acid and fatty amine.

Use/Production. (G) Confidential. Prod. range: 34,000-136,000 kg/yr.

P 88-1701

Importer. Roure, Inc.

Chemical. (G) Pentanal, 4-(4-Methyl-e-cyclohexen-ylidene)-(e) & (z) in a ratio of 40/60 or 60/40.

Use/Import. (S) Fragrance ingredient. Import range: 100-500 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,500 mg/kg species (Rat). Eye irritation: None species (Rabbit). Phototoxicity: Negative species (Guinea pig). Photoallergenicity: Negative species (Guinea pig).

P 88-1702

Manufacturer. General Electric Company, GE Plastics.

Chemical. (G) Aryl alkyl polyamide resin.

Use/Production. (S) Theroplastic resin. Prod. range: Confidential.

P 88-1703

Manufacturer. Confidential.

Chemical. (G) Modified polyester amino alkyl silane, hydrohalidesalt.

Use/Production. (G) Processing aid for fitness materials. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 16 g/kg species (Rat). Acute dermal toxicity: LD50 > 16 g/kg species (Rabbit). Skin irritation: Negligible species (Rabbit). Mutagenicity: Negative.

P 88-1704

Manufacturer. Confidential.

Chemical. (G) Polyester amino alkyl alkoxy silane, hydrohalide salt.

Use/Production. (G) Processing aid. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 16 g/kg species (Rat). Mutagenicity: Negative.

P 88-1705

Manufacturer. Confidential.

Chemical. (G) Polyester amino alkyl silane.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Mutagenicity: Negative.

P 88-1706

Manufacturer. Confidential.

Chemical. (G) Polyester amino alkyl silane.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Mutagenicity: Negative.

P 88-1707

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Open, nondispersive. Prod. range: 22,000-60,000 kg/yr.

P 88-1708

Manufacturer. Confidential.

Chemical. (G) Polymer of butyl acrylate with mixed alkyl methacrylates and alkyl maleate.

Use/Production. (G) Open, nondispersive. Prod. range: 45,000-90,000 kg/yr.

P 88-1709

Importer. Cray Valley Products, Inc.

Chemical. (G) Castor oil hydrogenerated polymer with ethylenediamine 12, hydroctanoic acid and adipic acid.

Use/Import. (S) Paint additive. Import range: Confidential.

P 88-1710

Importer. Cray Valley Products, Inc.

Chemical. (G) Castor oil hydrogenerated polymer with ethyenediamine 12, hydroxyoctadecanoic acid, and sebicic acid.

Use/Import. (S) Paint additive. Import range: Confidential.

P 88-1711

Manufacturer. Cray Valley Product.

Chemical. (G) Castor oil hydrogenerated polymer with ethylendiamine 12, hydroxyocanoic acid.

Use/Production. (S) Paint additive. Prod. range: Confidential.

P 88-1712

Manufacturer. Eastman Kodak Company.

Chemical. (S) Butyl acrylate; 2-Hydroxyethyl methacrylate; 2-Aminoethyl methacrylate; 2,2'-azobis(2-methyl propionamidine)dihydrochloride.

Use/Production. (G) Contained use. Prod. range: 300-3,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 g/kg species(Rat). Acute dermal toxicity: LD50 > 20 ml/kg species(Guinea pig). Eye irritation: Slight species(RABBIT). Skin irritation: Slight species(Rabbit). Skin sensitization: Negative species(Guinea pig).

P 88-1713

Manufacturer. Confidential.

Chemical. (G) Acrylated polyamine.

Use/Production. (G) Coating. Prod. range: 40,000-250,000 kg/yr.

P 88-1714

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) 2,2,2-trifluor-4'-chloro-acetophenone.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >500-5,050 mg/kg species(Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species(Rabbit). Eye irritation: Slight spcies(RABBIT). Skin irritation; Moderate species(Rabbit). Mutagenicity: Negative.

P 88-1715

Importer. Confidential.

Chemical. (G) Carboxy functional acrylic resin.

Use/Import. (S) Temporary coatings. Import range: Confidential.

P 88-1716

Manufacturer. Confidential.

Chemical. (G) Ammonium salt of carboxy functional acrylic polymer.

Use/Production. (S) Terminated coating. Prod. range: Confidential.

P 88-1717

Manufacturer. The Upjohn Company.

Chemical. (G) Naphtyl acid chloride.

Use/Production. (G) Contained use. Prod. range: Confidential.

P 88-1718

Manufacturer. Confidential.

Chemical. (G) p-Menthadienes and m-menthadienes mixture plus 3-carene, para-cymene, and camphene.

Use/Production. (S) Degreaser. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species(Rat). Acute

dermal toxicity: LD50 > 2,000 mg/kg species(Rabbit).

P 88–1719

Manufacturer. Confidential.
Chemical. (G) Amino alkyl alkanamide adduct with urea, alkysulfate salt.
Use/Production. (G) Cellulose softener. Prod. range: Confidential.

P 88–1720

Manufacturer. Confidential.
Chemical. (G) Sulfurized polyolefin.
Use/Production. (G) Dispersive. Prod. range: Confidential.

Date: August 9, 1988.

Steve Newburg-Rinn,

Chief, Public Data Branch, Information Management Division, Office of Toxic Substances.

[FR Doc. 88–18955 Filed 8–19–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 202–010270–029

Title: Gulf-European Freight Association.
Parties:
Compagnie Generale Maritime (CGM)
Lykes Bros. Steamship Co., Inc.
Gulf Container Line (GCL), B.V.
Hapag-Llyod AG
Sea-Land Service, Inc.
P&O Containers (TFL) Limited
Nedlloyd Lijnen, B.V.
Synopsis: The proposed modification would clarify the description of the neutral body authority of the members and provide for cooperation between them and other carriers to discuss procedures and administrative matters concerning self-policing.

Agreement No: 202–010714–008

Title: Trans-Atlantic American Flag Liner Operators.
Parties:
Farrell Lines Incorporated
Sea-Land Service, Inc.
Lykes Bros. Steamship Co., Inc.
Synopsis: The proposed modification would further define relevant cargo to include all cargo.

Agreement No: 202–010776–033

Title: Asia North America Eastbound Rate Agreement
Parties:
American President Line, Ltd.
Japan Line, Ltd. ("JL")
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Lines, Inc.
Sea-Land Service, Inc.
Yamashita-Shinnihon Steamship Co., Ltd. ("YSL")
Synopsis: The proposed modification would provide that as part of their name change to Nippon Liner System, Ltd., JL and YSL shall continue to be bound by and parties to applicable agreement tariffs and service contracts until completion of all voyages in the trade conducted under their individual names.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

August 17, 1988.

[FR Doc. 88–19016 Filed 8–19–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Creditanstalt-Bankverein, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Creditanstalt-Bankverein,* Vienna, Austria; to engage *de novo* through its subsidiary, C.A.W.T. Trade Finance Company, San Francisco, California, in making, acquiring, or servicing commercial loans or other extensions of credit principally in connection with international trade pursuant to § 225.25(b)(1); and leasing personal or real property or acting as agent, broker, or adviser in leasing such property pursuant to § 225.25(b)(5) of the Board's Regulation Y. These activities will be conducted worldwide.

2. *The Long-Term Credit Bank of Japan, Ltd.,* Tokyo, Japan; to engage *de novo* through one or more of its subsidiaries, in arranging commercial real estate equity financing pursuant to § 225.25(b)(14); real estate appraising pursuant to § 225.25(b)(13); real estate portfolio investment advice pursuant to § 225.25(b)(14); making, acquiring, or servicing loans or other extensions of credit pursuant to § 225.25(b)(1); and providing securities clearing and settling, accounting and ancillary services in respect of securities other than those that state member banks of the Federal Reserve System may be authorized to underwrite and deal in pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *G.N. Bankshares, Inc.*, Girard, Kansas; to engage *de novo* through its subsidiary, Progressive Financial Services, Inc., Girard, Kansas, in making and acquiring loans and other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *PNB Financial Group, Inc.*, Newport Beach, California; to engage *de novo* through its subsidiary, Pacific National Realty Finance, Newport Beach, California, in making, acquiring, and servicing loans and other extensions of credit for the account of company or for the account of others, such as would be made by a mortgage company pursuant to § 225.25(b)(1)(iii); performing real estate and personal property appraisal services pursuant to § 225.25(b)(13); and arranging commercial real estate equity financing pursuant to § 225.25(b)(14) of the Board's Regulation Y. Comments on this application must be received by September 9, 1988.

Board of Governors of the Federal Reserve System, August 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-18899 Filed 8-19-88; 8:45 am]

BILLING CODE 6210-01-M

Hazard Bancorp et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 9, 1988.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Hazard Bancorp*, Hazard, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank & Trust Company of Hazard, Hazard, Kentucky.

2. *Heartland Bancorp*, Grove City, Ohio; to become a bank holding company by acquiring 69 percent of the voting shares of The Croton Bank company, Johnstown, Ohio.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Security National Corporation*, Maitland, Florida; to acquire 100 percent of the voting shares of Security National Bank of Seminole, Altamonte Springs, Florida, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Affiliated Banc Group, Inc.*, Morton Grove, Illinois; to acquire 100 percent of the voting shares of Affiliated Bank/Chicago, Chicago, Illinois, a *de novo* bank. Comments on this application must be received by September 8, 1988.

2. *American Central Financial Group, Inc.*, Springfield, Illinois, formerly Charleston Bancorp, Inc.; to merge with Meredosia Bancorporation, Inc., Springfield, Illinois, and thereby indirectly acquire Farmers and Traders State Bank, Meredosia, Illinois, and Farmers & Merchants State Bank of Virden, Virden, Illinois. Comments on this application must be received by September 7, 1988.

3. *Bosshard Financial Group, Inc.*, La Crosse, Wisconsin; to acquire 89.9 percent of the voting shares of Grand Marsh State Bank, Grand Marsh, Wisconsin; and 92.3 percent of the voting shares of Farmers State Bank—Hillsboro, Hillsboro, Wisconsin.

4. *F.W.S.B. Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of St. Anthony Bancorporation, Inc., Omaha, Nebraska, and thereby indirectly acquire St. Anthony National Bank, St. Anthony, Minnesota.

5. *First of America Bank Corporation*, Kalamazoo, Michigan; to acquire 100 percent of the voting shares of Commercial National Bank & Trust Co., Iron Mountain, Michigan. Comments on this application must be received by September 7, 1988.

6. *First Wisconsin Corporation*, Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of St Anthony Bancorporation, Inc., Omaha, Nebraska, and thereby indirectly acquire St. Anthony National Bank, St. Anthony, Minnesota.

7. *Great Lakes Financial Resources, Inc.*, Blue Island, Illinois; to acquire 100 percent of the voting shares of Homewood Buildings, Inc., Homewood, Illinois, and thereby indirectly acquire Bank of Homewood, Homewood, Illinois.

8. *Manufacturers National Corporation*, Detroit, Michigan; to acquire 100 percent of the voting shares of Affiliated Bank/Chicago, Chicago, Illinois. Comments on this application must be received by September 8, 1988.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of Pickett County Bancshares, Inc., Byrdstown, Tennessee, and thereby indirectly acquire Pickett County Bank and Trust Company, Byrdstown, Tennessee.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Bank of New Mexico Holding Company*, Albuquerque, New Mexico; to acquire 98 percent of the voting shares of Western Bank of Springer, Springer, New Mexico. Comments on this application must be received by September 6, 1988.

2. *Dickinson Financial Corporation*, Chillicothe, Missouri; to merge with Chillocthe Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Community Bank, Chillicothe, Missouri; Community Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Citizens Bank of Shelbyville, Shelbyville, Missouri; First Bancshares of Kirksville, Inc., Chillicothe, Missouri, and thereby indirectly acquire First National Bank of Kirksville, Kirksville, Missouri; Fort Knox Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Fort Knox National Bank, Fort Knox, Kentucky; and Maryville Bancshares, Inc., Chillicothe, Missouri, and thereby indirectly acquire Citizens State Bank of Maryville, Maryville, Missouri. Comments on this application must be received by September 6, 1988.

3. *Morrill Bancshares, Inc.*, Sabetha, Kansas; to acquire 28.93 percent of the

voting shares of Morrill and Janes Bancshares, Inc., Hiawatha, Kansas, and thereby indirectly acquire Morrill and Janes Bank and Trust Co., Hiawatha, Kansas. Comments on this application must be received by September 6, 1988.

Board of Governors of the Federal Reserve System, August 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–18900 Filed 8–19–88; 8:45 am]

BILLING CODE 6210–01–M

Sterling Financial Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 9, 1988.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Sterling Financial Corporation,* Lancaster, Pennsylvania; to acquire Sterling Mortgage Services, Inc., Lancaster, Pennsylvania, and thereby engage in conducting a full range of mortgage services pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Lancaster County, Chester County, and Lehigh County.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation,* Minneapolis, Minnesota, and its subsidiaries, Norwest Financial Services, Des Moines, Iowa, and Norwest Financial, Inc., Des Moines, Iowa; to engage in operating a credit bureau pursuant to § 225.25(b)(24) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–18901 Filed 8–19–88; 8:45 am]

BILLING CODE 6210–01–M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Boards Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The facts that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than September 6, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Robert G. Wilmers,* Buffalo, New York; to acquire up to 20 percent of the voting shares of First Empire State Corporation, Buffalo, New York, and thereby indirectly acquire Manufacturers & Traders Trust Company, Buffalo, New York, and thereby indirectly acquire First National Bank of Highland, Highland, New York.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Ellis L. Clark,* Hiawatha, Kansas; to acquire an additional 9.69 percent of the voting shares of Morrill and Janes Bancshares, Inc., Hiawatha, Kansas, and thereby indirectly acquire Morrill and Janes Bank and Trust Co., Hiawatha, Kansas.

2. *George L. Kremer,* Zug, Switzerland; to acquire 100 percent of the voting shares of Membancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Memorial Bank, N.A., Oklahoma City , Oklahoma.

3. *W.C. Payne,* Oklahoma City, Oklahoma, and Charles V. Wheeler, Tulsa, Oklahoma; to each acquire 16.4 percent of the voting shares of Charter Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Charter National Bank, Oklahoma City, Oklahoma.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Sunwestern Financial Corporation,* Dallas, Texas; to acquire up to 24.9 percent of the voting shares of Provident Bancorp of Texas, Inc., Dallas, Texas, and thereby indirectly acquire The Security State Bank of Commerce, Commerce, Texas; Provident Bank-Dallas, Dallas, Texas; Provident Bank-Denton, Denton, Texas; DeSoto State Bank, DeSoto, Texas; and First State Bank, Wylie, Texas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Richard J. Meyer,* Fullerton, California; to acquire a maximum of 23.26 percent of the voting shares of Pacific Inland Bancorp, Anaheim, California, and thereby indirectly acquire Pacific Inland Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, August 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–18902 Filed 8–19–88; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 12, 1988.

Social Security Administration

(Call Reports Clearance Officer on 301–965–4149 for copies of package)

1. Employment Relationship Questionnaire—0960–0040—The information collected by use of the form SSA–7160 is needed and used to determine employer-employee relationships in questionable situations so that the Social Security Administration can maintain accurate earnings records. The affected public is comprised of individuals and small businesses. Respondents: Individuals or households; Small business or organizations. Number of Respondents: 50,000; Frequency of Response: On occasion; Estimated Annual Burden: 20,833 hours.

2. Statement Regarding Contributions—0960–0020—The information collected by this form is used by the Social Security Administration to make a determination of one-half support, which is a requirement for entitlement to certain kinds of benefits. Respondents: Individuals or households; Number of Respondents: 30,000; Frequency of Response: On occasion; Estimated Annual Burden: 7,500 hours.

OMB Desk Officer: Shannah Koss-McCallum

Health Care Financing Administration

(Call Reports Clearance Officer on 301–966–2088 for copies of package)

1. Information Collection Requirements at 42 CFR 476.105, 476.116 and 476.134—0938–0426—The Peer Review Improvement Act authorized PRO's to acquire information necessary to fulfill their duties and functions and places limits on disclosure of the information. These requirements are on the PRO to provide notices to the affected parties when disclosing information. Respondents: Business or other for-profit, Small businesses or organizations. Number of Respondents: 54; Frequency of Response: On occasion; Estimated Annual Burden: 37,691 hours.

2. Quarterly Medicaid Statement of Expenditures—0938–0067—The HCFA–64 is submitted by state medicaid agencies to report their actual program and administrative expenditures. Respondents: State of local governments. Number of Respondents: 57; Frequency of Response: Quarterly; Estimated Annual Burden: 9,462 hours.

3. Medicaid Program Budget Report—0938–0101—This report is prepared by the State Medicaid agencies and is used by HCFA to develop the national budget estimates. Respondents: State of local governments; Number of Respondents: 57; Frequency of Response: Quarterly; Estimated Annual Burden: 7,011 hours.

OMB Desk Officer: Allison Herron

Office of the Secretary

(Call Reports Clearance Officer on 202–245–0652 for copies of package)

Office of General Counsel

1. Federal Claims Collection—45 CFR 30.15(1), 30.19—0990–0148—The information submitted under 45 CFR 30.15(1) and 30.19 is used to evaluate a debtor's request for a hearing on the existence, amount of debt to the Government, or offset schedule proposed by HHS, or to evaluate an alternative repayment schedule proposed by the debtor. Respondents: Individuals or households, State or local governments, Business or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations. Number of Respondents: 500; Frequency of Response: Once; Estimated Annual Burden: 500 hours.

OMB Desk Officer: Shannah Koss-McCallum

As mentioned above, copies of the information collection clearance packages can be obained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: 202–245–2100
HCFA: 301–966–2088
FSA: 202–245–0652
SSA: 301–965–4149
OS: 202–245–6511
OHDS: 202–472–4415

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Shannah Koss-McCallum.

Date: August 16, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 88–18931 Filed 8–19–88; 8:45 am]

BILLING CODE 4150–04–M

Advisory Commission; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following national advisory body scheduled to meet during the month of August 1988:

Name: Secretary's Commission on Nursing.

Date and Time: Friday, September 16, 1988—8:30 a.m. to 4:30 p.m.; and Saturday, September 17, 1988—8:30 a.m. to 12:30 p.m.

Place: Room 727A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Purpose: The Secretary's Commission on Nursing will advise the Secretary of Health and Human Services on how the public and private sectors can work together to address problems and implement solutions regarding the supply of active registered nurses. The Commission will also consider the recruitment and retention of nurses in the U.S. Public Health Service, the Veteran's Administration and the Department of Defense. As appropriate for its work, the Commission will consider the findings of studies which are relevant to the development of a multi-year action plan for implementation by the public and private sectors.

Agenda: The bulk of the agenda for the September 16–17 meeting will be devoted to discussions about potential recommendations for inclusion in the Commission's final report. A brief presentation on the American Medical Association's "Registered Care Technologist" proposal will be given on September 16.

Agenda items are subject to change as priorities dictate.

Anyone wishing to attend these meetings who is hearing impaired and requires the services of an interpreter for the deaf should contact the Commission at least one week before the scheduled meeting. All such requests, as well as requests for information, should be addressed to the Secretary's Commission on Nursing, Hubert H. Humphrey Building, Room 600E, 200 Independence Avenue, SW.,

Washington, DC, 20201, telephone 202/245–0409.

Lillian K. Gibbons,

Executive Director, Secretary's Commission on Nursing.

[FR Doc. 88–18940 Filed 8–19–88; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on September 23, 1988, from 8:30 a.m. to 1 p.m., at the Bethesda Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814, (301) 657–1234.

The entire meeting is open to the public. The Coordinating Committee is meeting to define priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institute of Health, Building 31, Room 4A05, Bethesda, Maryland 20892, (301) 496–0554.

Dated: August 16, 1988.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 88–18957 Filed 8–19–88; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Arthritis and Musculoskeletal and Skin Diseases; Meeting of the National Arthritis Advisory Board

Pursuant to Pub. l. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory Board on October 16 and 17, 1988. The subcommittees will meet October 16, 7:30 p.m. to approximately 10 p.m., and the full board will meet October 17, 8:30 a.m. to approximately 5 p.m., at the Crytal City Marritott, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The meetings, which will be open to the public, are being held to discuss the Board's activities and to continue evaluation of the National effort to combat arthritis and musculoskeletal and skin diseases. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

Mr. John R. Abbott, Executive Secretary, National Arthritis Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–0801, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: August 15, 1988.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 88–18958 Filed 8–19–88; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. I–88–149]

Office of Environment and Energy; Environmental Statements; Availability, etc.: San Antonio, TX

Combined Notice: Intent to issue a finding of no significant impact and compliance with Executive Order 11988.

The Department of Housing and Urban Development gives notice concerning the Westcreek Villages Development located in the western portion of Bexar County, Texas, but within the extraterritorial jurisdiction of the City of San Antonio, that: (1) It intends to issue a Finding of No Significant Impact (FONSI) based upon an Environmental Assessment (EA) for the project; and (2) a notification that the proposed action is proposed to be partially located in the floodplain as required by Executive Orders 11988 on Floodplain Management. Comments are solicited before the Regional Administrator of the Fort Worth HUD Office makes a fnal determination whether to proceed without preparing an Environmental Impact Statement (EIS).

Description: The San Antonio Savings Association, San Antonio, Texas, has filed with the San Antonio Office of HUD an application to accept the single family subdivision portion of the development for mortgage insurance under section 203(b) of Title II of the National Housing Act of 1934, as amended. The Westcreek Villages subdivision is located west of Loop No. 1604, north of Potranco Road. The total development comprises 1,235 acres of land. Of this acreage, 626 acres will be devoted to single family residential use, 49 acres to duplexes, and 133 acres to multifamily housing use. Commercial land use will require 174 acres and a school site will occupy 26.7 acres. Easements, floodplains and streets will utilize the balance of land area. The total development will provide a total of 7,410 dwelling units, which will provide housing for approximately 23,700 persons. The project is now under construction and Phase 1 is to be completed within 5 years. Phase 2 development is beyond 5 years and as the market demands.

Purpose of FONSI Notice: Pursuant to HUD environmental regulations at 24 CFR Part 50, an EA has been prepared by HUD's San Antonio Office to determine whether or not an EIS is required. It is the finding of the EA that there would be no significant impact on the human environment and that the project is in compliance with the National Environmental Policy Act and related environmental laws and authorities cited at 24 CFR 50.4. Therefore, in accordance with the applicable regulations a proposed FONSI has been prepared, and a Notice to that effect is hereby published. Pursuant to 40 CFR 1502.4(e)(2) of the Council on Environmental Quality regulations, there will be a thirty (30) day comment period before HUD makes its final determination on the FONSI. Interested individuals, Governmental agencies, and private organizations are invited to comment on the FONSI by the date and to the address set forth below.

Purpose of Floodplain Notice: As required by Executive Order 11988, Floodplain Management, this also gives notice that HUD is considering this proposed action which is partially located in a floodplain. Interested individuals, governmental agencies, and private organizations are invited to also comment on the floodplain implications of the development by the date and to the address set forth below.

Additional Information and Comments: In preparing the environmental assessment for the proposed subdivision, considerable coordination and special analyses were undertaken on such issues as historic preservation and archeology, endangered species and aquifers. A special study, which included a series of archeological and historical investigations, was made in the fall of 1987 testing several sites for eligibility to the National Register of Historic Places. These issues were resolved to the satisfaction of the appropriate Federal and State agencies.

The EA which serves as the basis for the FONSI and supporting documentation are available for review until the close of the comment period at the HUD Fort Worth Regional Office

during regular business hours. Contacts concerning review should be made with I. J. Ramsbottom, Regional Environmental Officer, HUD Fort Worth Regional Office, 1600 Throckmorton, Fort Worth, Texas 76113–2905; telephone: Commercial (817) 885–5482 or FTS 728–5482 (the commercial number is not toll free).

Written comments should be submitted to Sam R. Moseley, Regional Administrator, Department of Housing and Urban Development, 1600 Throckmorton, Post Office Box 2905, Fort Worth, Texas 76113–2905 (Attention: Regional Environmental Officer) within thirty (30) days of the publication of this Notice.

Dated: August 12, 1988.

Dorothy S. Williams,

Deputy Director, Office of Environment and Energy.

[FR Doc. 88–18977 Filed 8–19–88; 8:45 am]

BILLING CODE 4210–29–M

Office of the General Counsel

[Docket No. N–88–1822; FR–2522]

Implementation of Executive Order 12612, Federalism

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Executive Order 12612, *Federalism*, is designed to ensure that Federal agencies take federalism concerns into account when developing and implementing agency policy initiatives that have substantial, direct effects on States or their political subdivisions, or on the relationship or distribution of power among the various levels of government. The Order requires agencies to analyze their proposed policy initiatives to determine whether they will have these effects and, if so, whether there are alternative ways of structuring the initiatives to achieve the Federal objective, with the least possible adverse effects on the operations and functions of State or local governments. The Order also contains special requirements for the preemption of State law by Federal statutes and regulations, and for the submission of proposed legislation to Congress. This Notice implements Executive Order 12612 for the policy formulation and implementation functions of HUD.

EFFECTIVE DATE: August 22, 1988.

FOR FURTHER INFORMATION CONTACT: Edward Murphy; Associate General Counsel for Legislation and Regulations; Room 10282; Department of Housing and Urban Development; 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755–7093. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Overview of the Order

How the Parts Fit Together

Executive Order 12612, *Federalism* (52 FR 41685, published October 30, 1987) has three principal elements. The main body of the Order—Sections 1 through 3, and 6 and 7—is designed to ensure that agencies take federalism concerns into account when developing and implementing expressions of agency policy that have "federalism implications." Section 4 of the Order prescribes special requirements for the preemption of State law by Federal statutes and regulations. Section 5 contains special and requirements for the submission of proposed legislation to Congress.

These three elements interact in the following ways. Section 5 establishes a threshold requirement for policy initiatives that are expressed in proposed legislation. Legislative proposals that meet this threshold, and all other policies covered by the Order (except preemptions subject to Section 4), are subject to review and analysis under the "federalism implications" provisions of the main body of the Order. Section 4 establishes requirements that are independent of the rest of the Order: If the issue involves statutory or regulatory preemption, only Section 4's special requirements apply.

The Main Body of the Order

For purposes of the main body of the Order, policies that have "federalism implications" are those that have "substantial direct effects" on States or their political subdivisions, or on the relationship or distribution of power among the various levels of government. All forms of agency policy statements and policy actions may be subject to the Order, but its greatest effect will be on regulations and proposed legislation—agencies' most visible ways of implementing policy initiatives. An agency policy initiative that does not meet the "federalism implications" threshold of applicability is not subject to the main body of the Order. (See Sections 1 through 3, and 6 and 7 of the Order.)

The Order requires that agencies take steps to identify policies that have "federalism implications" during the policy development stage, before a final decision is made to proceed with the policy. This timing is designed to ensure that the Order's provisions are taken into account at the earlier stages of the process, when policies are still sufficiently open that federalism concerns may have genuine effect on the policy's course. To the extent practicable, agencies are required to consult with affected States or their political subdivisions as part of the process for developing proposals with "federalism implications." In appropriate cases, agencies may have to modify or abandon the proposed policy initiative to comply with the Order's requirements. The controlling inquiries in this analysis are whether the proposed policy has "federalism implications" and if it does, whether there are alternative ways of structuring the policy to achieve the Federal objective with the least possible negative effects on the operations and functions of the States and their political subdivisions. (See sections 2 and 3 of the Order.)

The Office of Management and Budget (OMB) will assess an agency's performance under the main body of the Order when the agency submits its regulatory and legislative initiatives for OMB review under existing Executive Orders and OMB Circulars. (See section 7(b) of the Order.) Where the agency determines that the proposed policy's "federalism implications" are sufficient, the agency will prepare a "Federalism Assessment." The "Assessment" will be used for the agency's internal use, including review by the agency head, in determining whether to proceed with the proposal. It will also be used by OMB in determining the consistency of the proposed policy with the Order's provisions. (See section 6 of the Order.)

As noted above, any proposed legislation that falls within the Order's special requirements for legislation may not be transmitted to the Congress. (See section 5 of the Order.) With this one exception, the Order does not specifically prohibit implementation of a proposed policy, even where the policy is not consistent with the "federalism implications" of the main body of the Order.

The Order does, however, contemplate a continuing dialogue on proposals that have "federalism implications," through consultation with affected governmental entities; internal agency discussion; review by OMB; and, where a "Federalism Assessment" is required, personal review by the agency head. Thus, even if the Order itself imposes no bar to proceeding with a given policy initiative, these consultation and review features may result in the elimination or modification

of the proposal involved. (See sections 3, 6, and 7 of the Order.)

Section 5.

Section 5 of the Order prohibits agencies from sending proposal legislation to Congress that falls within its proscriptions. Specifically, proposed legislation may not directly regulate the States in areas of essential State autonomy; attach conditions that are not directly related to the proposal's purpose; or preempt State law, unless the preemption is necessary to achieve a valid Federal purpose. Section 5 applies to all proposed legislation—irrespective of whether the proposal meets the "federalism implications" threshold of applicability under the main body of the Order.

Section 4.

Section 4 of the Order contains special provisions governing the preemption of State law by Federal statutes and regulations. These provisions generally track current Supreme Court precedent governing such preemptions, but impose a "firm and palpable evidence" test for assessing the degree of congressional intent required to justify a regulatory preemption or a statutory preemption where congressional intent to preempt is inferred.

Implementation of the Order

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I. Definitions

(Section 2 of the Order)

As used in this Notice:

Benefit program means any program administered by the Department involving grants, loans, interest or rental assistance, mortgage or loan insurance, or any other kind of assistance.

Circular A–19 means OMB Circular A–19, *Rev., Legislative Corrdination and Clearance* (1979).

Congress means the Speaker of the House or the President of the Senate; any Member of Congress; the staff of any Member of Congress or of any committee, subcommittee, or other establishment of Congress; or any other officer or employee of Congress.

Designated Official means the HUD official under Section 6(a) of the Order whom the Secretary designates as responsible for ensuring the implementation and operation of the Order in accordance with its provisions. On January 4, 1988, the Secretary designated HUD's General Counsel as the Designated Official.

Executive Order or *Order* means Executive Order 12612, *Federalism* (52 FR 41685, published October 30, 1987).

Executive Order 12291 means Executive Order 12291, *Federal Regulation,* 3 CFR 127 (1981), *reprinted in* 5 U.S.C. app. 601 at 136 (Supp. v 1981).

Federalism implications means the effects referred to in the definition of *policies with federlism implications,* below.

Formulation and implementation means, with respect to a policy initiative, the entire policy development process, during which the identification and analysis of policies with federalism implications under the Order take place.

HUD or *Department* means the United States Department of Housing and Urban Development.

Legislation comment means any written expression of official HUD views on proposed or pending legislation (other than legislation proposed by HUD) that is prepared for (a) Transmission to Congress or OMB, (b) presentation as testimony before a congressional committee, or (c) release to any person or entity outside the Executive Branch. The term includes: (1) Any comment or recommendation on pending legislation included in any annual or special report that HUD proposes to transmit to Congress, or to release to any study group, commission, or member of the public; and (2) OMB requests for HUD views on the proposed legislative comments of other agencies and on enrolled enactments. The term does not include requests from Congress for technical advice and other technical services in connection with proposed or pending legislation.

This definition is patterned after the one contained in Circular A–19. The Department has adopted this approach, since Section 7(b) of the Order requires agenices to identify and discuss federalism concerns in their Circular A–19 submissions. Ensuring that OMB and the Department are working from essentially the same definition will facilitate both the Department's compliance with the Order and OMB's review of the Department's performance under the Order.

The definition differs from Circular A–19 in several respects. It subjects to the Order's requirements letters prepared for OMB or for release to the public that contain HUD's position or proposed or pending legislation. It also excludes from its coverage technical drafting services and technical comments on HUD-proposed bills.

OMB requests for HUD comments are added, since they fit squarely within the term, "legislative comments," and represent a large share of the Department's legislative reporting activity. Release of HUD's views on proposed or pending legislation to the public is covered, since such action can clearly have significant "federalism implications."

Circular A–19 now exempts from its coverage technical *drafting* services performed by Federal agencies at Congress' request. This Notice extends the exemption to specifically include situations in which the Department is asked to provide technical *reviews* of, and *comments* on, draft legislative language prepared *by Congress.* The Department believes that there is no

need to invoke the Order's requirements for technical advice, because, as Circular A–19 recognizes for agency technical drafting services, technical services by definition do not involve the "policy" issues with which the Order is concerned.

Moreover, technical review of pending legislation services a genuinely important function: Technical problems can be identified and resolved *before* the legislation is enacted. This not only ensures that the law reflects congressional intent, but also permits the Department to invest limited time and resources in implementing the legislation after its enactment, rather than diverting resources in an attempt to resolve the technical problems. Since many congressional technical services requests require immedicate "turn-around," subjecting these services to the Order's requirements could often prevent HUD from making meaningful comments and having the desired effect on congressional consideration of the legislation involved.

Main body of the Order means sections 1 through 3 and 6 and 7 of the Order.

OMB means the Office of Management and Budget.

Pending legislation means any bill or resolution that has been introduced in the Senate of the House of Representatives, any amendment to a bill or resolution while in a committee of Congress or when proposed for House or Senate consideration during debate, or any proposal placed before the conferees on a bill that has passed both Houses.

This definition is substantively the same as that contained in Circular A–19.

Policies that have federalism implications means all or part of any regulation, legislative comment, proposed legislation, or other policy statement or policy action, that has (or will have, when implemented) substantial, direct effects on: (a) The States, or (b) the relationship between the Federal government and the States, or (c) the distribution of power and responsibilities among the various levels of government.

As noted later, this definition is central to the implementation and operation of the main body of the Order: It establishes the threshold for determining whether individual HUD policy initiatives are subject to the Order's requirements for the identification and review of federalism issues under sections 2,3,6, and 7 of the Order.

In determining whether a policy's effects on States will be "substantial" and "direct," the Department will use a functional approach: do all the facts and circumstances of the policy proposal reach the level of importance and immediacy contemplated by the Order generally, and by the terms "substantial" and "direct," as defined below? The Department believes that attempting to fashion a detailed, a *priori* definition would result in a test that would be both too rigid and too loose, and that would lack the necessary flexibility to be adequately sensitive to the Order's objectives. The functional approach will permit the full and fair assessment of the "federalism implications" of all HUD's policy proposals that is contemplated by the Order.

Finally, the Department believes that the Order is primarily, of not exclusively, concerned with preserving and enhancing the *institutional* aspects of States and their political subdivisions in their *role* or *status* as governmental entities. Thus, the Order requires agencies to focus upon the effects of agency policies *on* States, or *on* the *relationship* or the *distribution of power and responsibility among* the various levels of government. It does not appear that just any "effect" on States—even if it is "substantial" and "direct" (within the Order's meaning)—would be adequate to trigger the Order's applicability. For example, a new grant program may affect States—perhaps even in significant ways—but not bring into question the *role* of the States vis-a-vis the national government or other governmental entities.

Thus, to be subject to the Order, the agency policy initiative must affect the role or status of States or their political subdivisions in direct and substantial ways. Examples could include a proposal to impose a Federal requirement in an area formerly left to State discretion, or a proposal to require States to impose sanctions on their political jurisdictions for violation of mandatory Federal standards.

As noted above, the determination of whether a given policy initiative has the requistie effects on the institution of the States will be made on a functional basis, taking into consideration all the facts and circumstances of the policy involved.

Policy action means an identifiable event in the policy development and implementation process: (a) That occurs when the essential elements of the policy are settled and (b) that is undertaken as a significant step toward implementation of the policy.

This definition does not attempt to identify the nature of an "action" with exactitude. Instead, it recognizes that for purposes of the Order, a "policy action" may take many form, depending on the facts of each case, and it provides general guidance that should be useful across the many circumstances that may give rise to a "policy action" under the Order.

The definition also attempts to identify the general place in the policy formulation/implementation continuum in which an "action" of significance to the Order is likely to occur: After most of the "thinking" is over and the remaining steps to effectuate the policy are primarily ones of implementation. Spotlighting this place in the policy *formulation* phase of the process is true to the implicit and explicit concern throughout the Order, that policy matters be identified and assessed while the policy is being developed—while the policy issues are sufficiently unsettled that the policy's federalism implications may receive a full and fair hearing, and the Order's precepts will have a chance of altering the policy.

Focusing on the early stages of the *implementation* phase of the process—the point at which the remaining steps primarily involve execution—ensures that the "action" will be identified early on the road to implementing the policy, thus also providing assurance that the Order's provisions will be applied at a meaningful point in the process.

Thus, a "policy action" occupies an analogous place in HUD's policy formulation and implementation process as the publication of a regulation or the dispatch of legislative comments or proposed legislation to their intended audiences: It is the point by which any of the Order's requirements that apply to the policy must be met.

It also is important to specify that an "action" must be "significant." This will permit the Department to focus on meaningful implementation steps, without having to sort through the many, relatively unimportant, "action" that typically make up the policy formulation and implementation process in order to identify "the action" that has significance under the Order.

The types of policies that might be of interest under the Order may include the following: Litigation policy; the imposition and enforcement of sanctions against individual State and local governmental entities, such as Public Housing Agencies (PHAs) in the Public and Indian Housing program (42 U.S.C. 1437, *et seq.*), and States and Entitlement communities in the CDBG program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301, *et seq.*); information dissemination; certain HUD research decisions; Federal Budget decisions that

do not require legislative or regulatory implementation; and the oral transmission of legislative comments or proposed legislation, to the extent their written counterparts are subject to the Order.

Considering litigation policy as a "policy action" under the Order raises special issues. By its nature, litigation does not admit of the free interchange of views among affected parties that the Order contemplates. In addition, many of the policy options that arise during the pendency of litigation must be assessed primarily in terms of what the "other side" is arguing, and is likely to argue during the rest of the suit; how the court will react; and what effect any given course may have on the ultimate outcome of the action. Often, decisions must be made in accordance with exceedingly short, court-imposed deadlines. Although the Order applies to litigation policy as a type of "policy action," the Department believes that special care must be taken to ensure that the Order operates in a way that does not jeopardize the Department's litigation objectives.

The Department engages in two general types of litigation: Affirmative litigation, in which the Department pursues a claim against a party, and defensive litigation, in which another party pursues a claim against the Department. For affirmative litigation, the Department will comply with the Order's requirements to the extent practicable when determining whether to commence litigation: *i.e.*, the Department will take the Order's precepts into account in determining whether to sue, whom to sue, the legal theories to be used, and the type of relief to be requested. Since the Department is the plaintiff and, thus, will frame the issues in the litigation, this initial review under the Order will generally cover all the federalism concerns that are likely to arise in the matter. In the unlikely event that the litigation turns in ways that raise new federalism concerns, the Department will comply with the Order's requirements at that time to the extent feasible.

In defensive litigation, the Department has very little freedom to frame the scope of the litigation, and is generally in the position of responding to the plaintiff's arguments. Thus, defensive litigation—unlike affirmative litigation—does not offer a single point where review of the litigation issues in light of the Order can be effectively carried out.

There are, however, two instances in which review under the Order may be possible. First, where settlement of the litigation is under consideration, the Department would have at least some room to assess the proposal in light of the Order's precepts. Second, issues of preemption of State law occasionally arise in the course of defensive litigation. These issues could be reviewed in light of Section 4 of the Order as they are encountered.

Because of the essentially "reactive" posture of the Department in defensive litigation, it is doubtful that other points along the defensive litigation spectrum will involve the kind of policy discretion contemplated by the Order. If, however, such a situation arises, the Department will comply with the Order's requirements to the extent feasible.

Finally, as noted above, many aspects of litigation policy do not fit comfortably with the Order's precepts. One area that may raise serious issues is the Order's frequent reference to advance consultation with affected parties. (See the consultation provisions under the Federalism Policymaking Criteria in Sections III.B. and C.(3)(iv), and the speical requirements for preemption under Section V.D.) Depending on the nature of the litigation, the Department may have the opportunity, and may find it appropriate, to engage in some form of consultation before the litigation is commenced. Indeed, this would often be done in the case of affirmative litigation, where discussions with the entities involved would routinely precede any decision to proceed with litigation. Even defensive litigation may afford the opportunity for this type of advance consultation.

However, as the Department's consideration begins to turn away from informal methods of achieving its objectives, and the likelihood of a litigated resolution of the case becomes greater, the need to develop the litigation's policy without discussing it in public—especially with those entities most directly affected by it, the other parties to the action—will render further consultation infeasible in the vast majority of cases. Again, it should be noted that the Order itself recognizes the need for flexibility in providing advance consultation, by permitting the agencies to determine whether such action is feasible and, if so, of what the "consultation" should consist.

Considerations similar to affirmative litigation attend the imposition of administrative sanctions against States. Thus, the Department will comply with the Order to the extent feasible in determining whether to invoke an administrative sanction. Since the Department frames the sanction issue, it is reasonable to expect that review of the issue under the Order will reach all the federalism issues involved. If, however, changed circumstances warrant a fresh review of the action's federalism impacts, the Department will comply with the Order's requirements to the extent feasible at the appropriate stage of the proceeding.

Policy proposal or *policy initiative* means any HUD regulation, legislative comment, legislative proposal, or other policy statement or policy action.

Policy statement means a statement of HUD policy, other than a substantive regulation, that must be published in the **Federal Register** under 24 CFR Part 10. The term includes Notices and Notices of Funding Availability that must be published in the **Federal Register**. The term does not include less formal means of policy communication, such as HUD Handbooks, Notices to the Field, Notices to Public Housing Agencies (PHAs), or Mortgagee Letters, that are not subject to publication under Part 10.

Proposed legislation means draft legislative language—both authorizing and appropriating—or any supporting document (*e.g.*, a "Speaker letter," section-by-section analysis, or statement of purpose and justification) that HUD sends to OMB for review under Circular A–11 or A–19 for transmission to Congress, or for release to any person or entity outside the Executive Branch. The term includes any proposal for, or endorsement of, Federal legislation included in any annual or special report prepared by the Department or in other written form which the Department proposes to transmit to Congress, or to make available to any study group, commission, or the public. The term does not include requests from Congress for technical drafting and other technical services with respect to proposed legislation.

This definition follows the definition of "proposed legislation" in Circular A–19. The exception for technical drafting services is based on a similar exception in the Circular. The definition includes both authorizing and appropriating legislation, since the Order's use of the term, "proposed legislation," is clearly broad enough to encompass both, and both can have the types of federalism effects that the Order is designed to reach.

Regulation means all or part of any departmental statement of general or particular applicability and future effect designed: (a) To implement, interpret, or prescribe law or policy; or (b) to describe the Department's organization, or its procedure or practice requirements.

This definition is taken from 24 CFR Part 10, HUD's "rule making"

regulations. The definition governs the Department's regulatory functions, and is essentially the same as that used for determining the necessity for OMB review or regulatory documents under Executive Order 12291. Since sections 6(c) and 7 of the Order contemplate OMB review of agency rules and federalism assessments, use of the Part 10 definition will satisfy both HUD's and OMB's requirements for the production and review of rules.

Secretary means the Secretary of Housing and Urban Development.

States means the several States of the United States of America, individually or collectively and, where relevant, State governments, including units of local government and other political subdivisions established by the States; the Commonwealth of Puerto Rico; the District of Columbia; the Virgin Islands, Guam, the Northern Mariana Islands, and American Somoa, and any political subdivisions established by them; and the Trust Territory of the Pacific Islands.

The term includes governmental entities that have general governmental powers (such as city or county) and those that have limited or special powers (such as PHAs).

Although the Order does not explicitly include as "States" Puerto Rico, the District of Columbia, the Insular Areas, or other Territories and Possessions of the United States, these entities are considered to be "States" or "units of general local government" for many of the Department's programs. These include the Community Development Block Grant (CDBG) program under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301, *et seq.*), the public housing program under the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*), FHA mortgage and loan insurance under the National Housing Act (12 U.S.C. 1702, *et seq.*), and the homeless housing initiatives in title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361, *et seq.*). The Department believes that it is appropriate to include these entities within the Order's coverage, since many of the same "federalism" issues inhere in their relationship with the Department and it is important to foster uniformity of treatment among the many types of governmental jurisdictions that participate in the Department's programs.

Substantial direct effects means effects that are: (a) Significant or important (not minor or insignificant) and (b) immediate (not incidental, or derived or received from or through another entity).

II. Applicability

(Sections 1(a) and 2 through 7 of the Order)

A. In General

The Order is divided into three principal elements. The main body of the Order—Sections 1 through 3, and 6 and 7—provides guidance on the formulation and implementation of policies that have "federalism implications." Section 5 (Section IV. of this Notice) prohibits agencies from transmitting to Congress proposed legislation that falls within its proscriptions. Section 4 (Section V. of this Notice) contains special requirements for the preemption of State law by Federal statutes and regulations.

These elements interact as follows. Section 5 establishes a threshold requirement for agency policy initiatives that are expressed in proposed legislation, without regard to their "federalism implications." Legislative proposals that meet this threshold, and all other policy proposals covered by the Order (except preemptions under section 4), are subject to review and analysis under the "federalism implications" provisions of the main body of the Order. Where a potential statutory or regulatory preemption is involved, *only* section 4 of the Order applies: *i.e.*, the "federalism implications" of these types of preemptions will *not* be assessed under the main body of the Order.

B. Policies with Federalism Implications

(Section 1(a) of the Order)

(1) *In general.* The main body of the Order applies to "policies that have federalism implications." Thus, the threshold for the main body of the Order is reached when the HUD policy proposal involved has (or will have, when implemented) substantial, direct effects on: (a) The States, (b) the relationship between the Federal government and the States, or (c) the distribution of power and responsibilities among the various levels of government.

In determining whether the requisite effects are present, the Department will consider the initiative as a whole, as well as any parts of it that may have federalism implications.

(2) *Limitations upon compliance with the Order.* There are circumstances that may render full (or even any) compliance with the Order's "federalism implications" requirements impossible or unnecessary, despite the presence of policies that meet this threshold. As noted earlier, the Order is designed to ensure that federalism concerns are taken into account in agency policy making. The *sine qua non* of achieving this end is the existence of a policy that is susceptible to influence. Where the policy involved is not amendable to change, or where review under the Order is impracticable or unnecessary, compliance with the Order will not be required.

It should be noted that the Department will take these considerations into account only if the policy involved has been determined to meet the Order's "federalism implications" threshold of applicability. These limitations do not affect the presence of "federalism implications" in a given policy proposal; they merely serve to modify the extent to which the Order's prescriptions must be followed.

Examples where the type of agency "discretion" contemplated by the Order is not present include, but are not limited to, the following:

(i) *Further analysis is redundant.* Where, for example, (A) the Order was complied with at an earlier stage in the policy development process and the policy proposal in question is the same; or (B) it has been changed, but without significantly altering its "federalism implications" or changing its purpose to such an extent that a new look at the proposal's relationship to the Order would be warranted.

Examples include moving a rule from proposed to final, where the proposal's "federalism implications" were assessed at the proposed rule stage; and reproposing to Congress legislation that originally complied with the Order. In these cases, HUD will review the initial work under the Order, and determine whether another round of review under the Order is necessary.

(ii) *Policies with little or no discretion.* Examples include regulations implementing "self-executing" laws or statutory authorities whose implementation is within the statutory text or legislative history of the provision involved, thereby involving little or no discretion on the part of HUD in areas that may involve federalism issues. These types of regulatory situations will often arise in connection with proposals that are being implemented by informal communication, such as interim instructions, or by final rule without prior notice and comment, where lack of implementing discretion is cited in the preamble as a reason for skipping notice and comment. This exception also covers such items as litigation policy that the Department must carry out under court order, and congressionally

mandated research projects or Budget actions.

(iii) *Analysis is not feasible.* Examples include regulations that are emergency in nature or that contain congressionally or OMB-imposed deadlines that make full compliance with the Order impossible, or legislative proposals and comments that carry expedited deadlines from OMB or the Congress. In such cases, the Department will comply with the Order in as full a fashion as possible, given the time contraints.

(iv) *Technical matters.* Examples include proposed legislation and legislative comments that do not involve substantive issues, such as technical legislative amendments or technical comments on pending legislation or simple extensions of authority.

In determining whether any of the above conditions is present in a given policy initiative, the Department will limit its consideration to the aspects of the proposal that exhibit the "federalism implications." It also should be noted that more than one exception may apply to a given policy initiative. Thus, part of the initiative may have undergone review under the Order at a previous time, and another part of the proposal may be implementing a statutory mandate that permits little or no discretion in its promulgation. In such an instance, neither part of the proposal requires review and analysis under the Order.

(3) *Effect of applicability.* If a given policy initiative is determined to meet the "federalism implications" threshold under paragraph B.(1) of this Section, and if review under the Order is not subject to exception under paragraph B.(2) of this Section, the formulation and implementation of the initiative must be guided by the Fundamental Federalism Principles contained in Section III.B. of this Notice, and the initiative must be analyzed under the Federalism Policymaking Criteria of Section III.C. In addition, the need for a Federalism Assessment under Section III.D. of the notice must be determined, and the policy must be highlighted for OMB in the agency's submissions under Circular A–19 and Executive Order 12291.

A policy proposal that does not have the requisite "federalism implications" need not be assessed under the main body of the Order.

C. *Legislative proposals.* Section IV. of this Notice establishes a threshold for all proposed legislation. The threshold applies irrespective of whether the proposal has "federalism implications" for purposes of the main body of the Order. Any proposal that falls within the provision's proscriptions may not be sent to Congress. Proposals that meet the threshold may be subject to further "federalism implications" review and analysis under the main body of the Order.

D. *Preemption of State law by Federal statutes or regulations.* Section V. of this Notice applies to all proposed preemptions of State law by Federal statutes or regulations. Policies that are within this Section's coverage are not subject to review under the other provisions of the Order. This conclusion rests on two bases.

First, as noted earlier, analysis of a policy initiative's "federalism implications" under the Order presumes the existence of agency discretion in developing and implementing the initiative. The absence of this discretion renders review and analysis under the main body of the Order unnecessary, since the Order does not have the ability to achieve its purpose of ensuring that federalism concerns may influence the initiative's development and implementation.

In determining whether a statutory or regulatory preemption meets section 4's standards, the only issue is whether there is sufficient evidence that Congress intended to preempt the State law. This inquiry does not provide the necessary agency discretion to permit meaningful "federalism implications" analysis. Establishing congressional intent does not involve federalism considerations, and a determination that Congress intended to preempt State law leads the agency to do precisely that, irrespective of any federalism or other policy considerations that might be present.

Second, section 4 contains additional provisions requiring that the extent of preemption be the minimum necessary to accomplish the Federal purpose, that affected officials and organizations be consulted when a preemption issue arises, and that affected States in rule making proceedings involving preemption be given opportunity for appropriate participation in the action. These features are analogous to those provided elsewhere in the Order, and seem to demark a "complete system" for preemption subject to section 4 that is separate from the "federalism implications" provisions of the main body of the Order.

Finally, it should be noted that section 4 only applies to statutory or regulatory preemption. Other forms of preemption, such as a legislative proposal seeking to preempt State law, are subject to review under other provisions of the Order, as appropriate.

E. *Exemption for activities under the Inspector General Act.* The activities of the Department's Inspector General under the Inspector General Act (42 U.S.C. 1404a) are exempt from the Order. The Department has consistently interpreted the Inspector General Act as establishing an exclusive statutory charter that is not subject to interference or dilution by administrative factors external to the Act.

In this instance, the very purpose of the Order is to require that an external factor—federalism concerns—be taken into account in the exercise of agency discretion. Application of the Order could affect a number of the Inspector General's activities under the Act, including the requirement that is central to the Inspector General's mission: That the Inspector General identify and seek corrective action for fraud, waste, and abuse by participants in HUD programs, including State or local governments.

Consistent with its previous interpretations of the inviolability of the Inspector General Act, the Department believes that the best approach is simply to exempt the Inspector General's functions under the Act from the Order's provisions.

It should be noted that the Order recognizes the possibility of such an interpretation, by explicitly stating that the Order's requirements are to apply "to the extent permitted by law."

III. Review and Analysis of Policies that Have Federalism Implications

A. Constitutional Considerations. (Sections 2, 3(a) and (b), 5(a), and 6(c)(4) of the Order)

A number of the Order's provisions refer to its constitutional underpinnings and the principles that are to guide agencies in implementing it. Thus, sections 3(a) and (b) of the Order (Section III.C.(2) of this Notice) call for strict adherence to "constitutional principles;" Section 3(b)(2) requires that agency policy initiatives not "encroach upon authority reserved to the States;" sections 2(b), (c), and (g) of the Order (see Appendix A to this Notice) refer to federalism in terms of State "sovereignty" that is protected by the Tenth Amendment to the Constitution; and section 5(a) (Section IV.A. of this Notice) prohibits proposed legislation that would:

> * * * interfere with functions essential to the States' separate and independent existence or operate to directly displace the States' freedom to structure integral operations in areas of traditional government functions.

Thus, the Order appears to view federalism from the perspective that there are relatively fixed areas in which

States enjoy clear constitutional protection from Federal action.

Some of the older Supreme Court cases—especially *National League of Cities v. Usery*, 426 U.S. 833 (1976)—seem to be in particular agreement with the Order's approach. The *National League of Cities* case involved Federal attempts to impose Federal wage and hour provisions on a city public transportation agency. The Court framed the issue before it as whether the wage and hour determinations sought to be imposed were "functions essential to the separate and independent existence" of the State (at 845). In ruling against Federal regulation, the Court found that these determinations would:

> * * * significantly alter or displace the States' ability to structure employer-employee relationships in such areas as fire prevention, police protection, sanitation, public health, and parks and recreation. These activities are typical of those performed by state and local governments in discharging their dual functions of administering the public law and furnishing public services. Indeed, it is functions such as these which governments are created to provide, services such as these which the States have traditionally afforded their citizens. If Congress may withdraw from the States the authority to make those fundamental employment decisions upon which their systems for performance of these functions must rest, we think there would be little left of the States' separate and independent existence. (at 851)

The Court stated its constitutional prescription as applying to any Federal action that "operates to directly displace the States' freedom to structure integral operations in areas of traditional government functions." (at 852)

National League of Cities, however, was overruled by *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985). Garcia involved the same issues as *League of Cities*. The approach adopted by the Court in *Garcia* was that the States' continuing role in the Federal system is primarily guaranteed not by externally imposed limits, but by the structure of the Federal Government itself. That is, the Federal political *process* is the primary means for ensuring the role of States in the Union, not efforts to identify "traditional governmental functions" or other tests for determining the specific boundaries of Federal/State powers.

The *Garcia* doctrine was recently amplified in *State of South Carolina v. Baker*, U.S. , 108 S.Ct. 1355 (April 28, 1988). *South Carolina* involved the constitutionality of an Internal Revenue Code provision denying Federal income tax exemption for interest earned on unregistered long-term State and local government bonds. In discussing the federalism aspects of the issue, the Court stated,

> *Garcia* holds that the [Tenth Amendment] limits are structural, not substantive—*i.e.*, that States must find their protection from congressional regulation through the national political process, not through judicially defined spheres of unregulable state activity. (at 1360)

In response to South Carolina's argument that the political process failed because the statute in question was enacted on the basis of insufficient credible evidence, the Court stated:

> Although *Garcia* left open the possibility that some extraordinary defects in the national political process might render congressional regulations of state activities invalid under the Tenth Amendment, the Court in *Garcia* had no occasion to identify or define the defects that might lead to such invalidation * * * Nor do we attempt any definitie articulation here. It suffices to observe that South Carolina has not even alleged that it was deprived of any right to participate in the national political process or that it was singled out in a way that left it politically isolated and powerless. Cf. *United States v. Carolene Products Co.*, 304 U.S. 144, 152, n. 4 (1938). Rather, South Carolina argues that the political process failed here because § 310(b)(1) was "imposed by the vote of an uninformed Congress relying upon incomplete information." * * * But nothing in *Garcia* or the Tenth Amendment authorizes courts to second-guess the substantive basis for congressional legislation. Cf. *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 464, 101 S.Ct. 715, 724, 66 L.Ed. 2d 659 (1981). Where, as here, the national political *process* did not operate in a defective manner, the Tenth Amendment is not implicated. (at 1360–1361) (emphasis in original)

Although the approaches adopted by the Order and *Garcia/South Carolina* appear to embody two different constitutional standards, the Department sees no inherent conflict in using these tests for purposes of giving content to the Order. The *Garcia/South Carolina* analysis expresses the current constitutional interpretation of how far the Federal government may go in affecting States' actions. The Order, on the other hand, counsels a *voluntary* limit on the exercise of Federal power. Provided that the Federal action is within the *Garcia/South Carolina* standard, the approach taken by the Order is without constitutional objection.

Three provisions of the Order require constitutional analysis along the lines of *National League of Cities*. Section 3(b)(2) of the Order requires agencies, in assessing the constitutional basis for policy initiatives, to ensure that the initiative does not "encroach upon authority reserved to the States." Section 5(a) of the Order prohibits the submission to Congress of proposed legislation that directly regulates States "in ways that would interfere with functions essential to the States' separate and independent existence or operate to directly displace States' freedom to structure integral operations in areas of traditional governmental functions." Section 6(c)(4) requires agencies to identify the (extent to which a policy proposal would affect the States' "ability to discharge traditional governmental functions, or other aspects of State sovereignty.

In devising a test that would faithfully implement these concepts, the Department shares the Supreme Court's frustration over fashioning constitutional standards that can be applied over a wide range of factual situations. Thus, for purposes of implementing these provisions, the Department believes the best approach is to base its analysis on the test described above in *National League of Cities:* Does the policy initiative operate to directly displace the States' freedom to structure integral operations in areas of traditional government functions? This test appears to be a good starting point for analyzing the various "constitutional" concepts used in the Order, and has the further advantage of having been used to decide the federalism implications of actual fact situations by the highest court in the land.

In applying this test, the Department will consider all the facts and circumstances of the policy proposal. Among the factors that the Department may consider are the following: (1) Whether the function involves an area over which States have historically and typically had (or have been recognized as having) governmental autonomy; (2) how central the function is to the State's operation as a State; (3) whether the Federal action would directly displace or interfere with State discretion and, if so, to what extent would it do so; and (4) whether the State discretion that would be displaced involves important areas that are necessary to attainment of the State function or to the ability of the State to function as a State.

B. Fundamental Federalism Principles

(Section 2 of the Order, Appendix A of this Notice)

In formulating and implementing HUD policy initiatives that have federalism implications, the Department will be guided by the series of Fundamental Federalism Principles that are contained in section 2 of the Order. These principles call upon Federal agencies to recognize the unique and important role

that States and their political subdivisions play in the Federal system, and to fashion their policy initiatives in ways that encourage the diversity and creativity of States and localities in addressing issues of concern to them. In their consideration of policy initiatives, Federal agencies are admonished to use a presumption in favor of State action and against Federal regulation, unless Federal action is required by law or there is some other demonstrable justification for Federal action.

A full listing of the Fundamental Federalism Principles appears at the end of this Notice, as Appendix A.

C. Federalism Policymaking Criteria

(Section 3 of the Order)

(1) *In general.* Section 3 of the Order contains a number of criteria against which the federalism aspects of agency policy initiatives are to be measured. As noted in Section II.B.(1), above, these criteria apply only to policies that have met the Order's "federalism implications" threshold under section II.B.(1) of this Notice, and are not otherwise excepted from Order review under Section II.B.(2) of this Notice.

It should also be noted that paragraphs C. (2) and (3) of this section frame their provisions in terms of analyses and determinations that "should" be made. The Department intends to carefully and fully follow these provisions as a general matter, except where some countervailing consideration counsels otherwise: that is, we will consider the "should" as the equivalent of "to the maximum extent practicable." The Department believes that this approach gives effect to the Order's objective: It preserves the general applicability of the Order, while giving agencies some room to work out problem areas, without the "straight jacket" of a series of "shall" imperatives.

Thus, in addition to being guided by the Fundamental Federalism Principles described in Section III.B. and Appendix A of this Notice, HUD will, to the extent permitted by law and to the maximum extent practicable, adhere to the criteria in the following provisions of this Section when formulating and implementing policies that have "federalism implications."

(2) *Policy initiatives that would limit the policymaking discretion of the States.* (Sections 3 (a) and (b) of the Order) If the policy proposal would "limit the policymaking discretion of the States," the Order specifies a number of prescripts that should be followed. The quoted phrase is not defined in the Order, and is susceptible to several interpretations.

Viewed in a more narrow sense, "limit the policymaking discretion of the States" includes situations in which the Federal action is intended to *actually* reduce or remove State authority in areas in which the State has *already acted* or has the legal capacity to act *in the future.* This reading primarily includes matters of "pure regulation," in which the primary purpose and direct effect of the policy initiative is to regulate some aspect of State interest. This type of regulation may require the preemption of State law to accomplish its objective. A good example of this type of "limit" on State policy making discretion is the Federal attempt to impose the wage and hour requirements that were at issue in the *National League of Cities* and *Garcia* cases.

This interpretation of "limit the policymaking discretion of States," however, does not include policy actions involving HUD benefit programs. These programs are intended to convey some benefit on the public, and any "limit" on State policy making discretion is only incidental to achievement of this overall purpose. Stated differently, HUD "regulation" of State and local governments in the context of benefit programs is not principally intended to affect these governmental entities *qua* governmental entities, but merely enlists their assistance in carrying out the programs' purposes.

The exclusion of benefit programs from paragraph C. of this Section draws support from the Order's rendition of the type of situation that may justify "limiting" State discretion: Where "national activity is necessitated by the presence of a problem of national scope." This language clearly requires a Federal "policy action" that is primarily intended to address a national problem. As noted above, however, to the extent benefit programs affect State interests, they do so only as an incident to achievement of the Federal purpose involved.

On the other hand, under a more expansive reading, "limit the policymaking discretion of the States" could include situations in which the agency policy could have less clear effects, for example, by moving into an area where *no* State policymaking has occurred, and the only "limit" on future State policymaking would be the putative "chilling" effect of the Federal activity in the area. Thus, in determining whether to propose the Housing Voucher program—the centerpiece of the Administration's rental housing assistance strategy—this reading of the Order would have required the Department to consider whether the existence of the new program would act to prevent or discourage States from experimenting with and establishing their own form of voucher assistance. It is generally fair to assume that enactment of a new Federal benefit program will "discourage" State and local governments from entering into the same area, since the availability of the Federal money will prompt the governmental entity to use its resources for other priorities. If this projection of the proposal's effects prevented the Department from recommending enactment of the program, the result would have been doubly detrimental: Not only would the public have been deprived of a preferable way of delivering rental housing subsidy, but also the States and localities would not have been provided a subsidy model that a number of these entities have in fact seen fit to replicate with their own resources.

On balance, the Department believes that the more narrow reading is preferable. A broader interpretation would apply to a host of HUD benefit programs, and would subject them to the constitutional and "problem of national scope" criteria in sections 3(a) and (b) of the Order. Most, if not all of these programs, and even amendments to them, arguably could not have been transmitted to Congress, if this reading of the Order applied to them in their policy development stage. This result would follow despite the fact that any "regulation" of States and localities is merely an incident to the programs' overall purposes. The Department doubts that the Order was intended to have such dramatic effects on existing or future Federal benefit programs.

Thus, for purposes of the Order, the provisions of this paragraph C. apply to any policy initiative that is intended to actually reduce or remove State authority in areas in which the State has already acted or in which the State has the legal capacity to act in the future. This will be limited to situations involving matters of "pure regulations," and legislative preemption designed to effectuate "pure regulation," in which the primary purpose and direct effect of the policy initiative is to affect areas of State interest.

This paragraph C. does not cover policy initiatives involving HUD benefit programs, since such programs generally affect State interests only as an incident to their benefit purpose. It also does not reach preemptions of State law by Federal statutes or regulations or incident to a HUD benefit program.

Policies that fall short of this paragraph C.(2)'s standard may be covered under other provisions of the Order, but need not be assessed under this paragraph C.

The precepts that the Order specifies should be followed for policy proposals that would "limit the policymaking discretion of the States" and, therefore, are subject to this paragraph, are as follows.

(i) *Constitutional and statutory basis.* There should be strict adherence to constitutional principles. The constitutional and statutory authority for the proposed policy should be closely examined. No policy action should be taken, unless the constitutional authority is "clear and certain." Authority is "clear and certain," only when (A) the authority for the policy may be found in a specific provision of the Constitution, (B) there is no provision in the Constitution prohibiting Federal action, and (C) the action does not encroach upon authority reserved to the States.

For guidance on how the Department will interpret the phrase, "authority reserved to the States," see Section C. of this Notice.

In determining whether the authority for a policy initiative "may be found in a specific provision of the Constitution," or whether there is any constitutional provision "prohibiting Federal action," the Department will not require that the action be *explicitly* referred to in the actual language of the Constitution. The constitutional authority for an action will be determined on the basis of the specific provisions of the Constitution, as interpreted by current Supreme Court precedent. The Department believes that this approach will be more than adequate to ensure the achievement of the Order's mandate that agency policy proposals have a "clear and certain" Constitutional basis.

(ii) *Problem of national scope.* No policy action should be taken, unless national activity is necessitated by the presence of a problem of national scope.

The Order does not define "problem of national scope." Section 3(b)(1) does, however, point out "importance of recognizing the distinction between problems of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because individual States, acting individually or together, can effectively deal with them)."

The only guidance the Order offers to distinguish between these categories is that the States have the ability to deal with "common" problems. The ability of a State "to effectively deal with a problem" may turn on an analysis of its actual fiscal strength and managerial capacity, or an assumption that States can handle "common" problems, irrespective of their actual capabilities. Attempting to establish States' actual capacities would be time-consuming and probably not very politically feasible, not to mention informative. On the other hand, use of an *a priori* judgment about States' capabilities would be inadequate to account for the wide range of differences among governmental entities.

The Department believes that the best approach is to focus on whether States have the *legal* capacity to address these "common" problems, not whether they *in fact* have the capacity to do so. The language of the Order does not suggest use of a facts-based test for defining "common" problems. Indeed, use of "national" and "common" seems to establish a textbook polarity that ought not turn on the facts of individual cases.

Thus, in assessing whether a HUD policy initiative addresses a "problem of national scope," the Department will determine whether the affected States and local governments have the *legal capacity* to deal with the problem effectively, acting either alone or in concert. For purposes of the Order, "legal capacity" will include situations in which the State *both* has full legal ability to take effective action *and* the State does not have such ability, but could obtain it through appropriate enabling legislation or other action at the State level.

In any case in which the States involved have the requisite legal capacity, the "problem" will not be considered to be one of national scope for which Federal action is permitted.

For purposes of section 3(b) of the Order, the Department will give the word, "problem," its dictionary meaning: A matter involving difficulty in solving or handling. As noted above, the existence of a "problem" is a threshold requirement for Federal action under that Section. Thus, HUD action under section 3(b) must be directed toward resolving or otherwise dealing with an articulable, demonstrable difficulty requiring Federal intervention.

Finally, "national activity" will mean action at the Federal level to address the problem. "National scope" will be defined as a nationwide problem.

Thus, for purposes of this paragraph C.(3)(ii), a "policy action" subject to the Order may only be taken if action at the Federal level is required to address a demonstrable, nation-wide problem that States, acting alone or in concert, do not have, or cannot obtain, the legal capacity to handle effectively.

(iii) *Need for the policy action.* The necessity for the policy action should be carefully assessed.

In making this assessment, the Department will review not only the overall policy proposal, but also each of its aspects, to ensure conformity with the objectives of the Order.

(iv) *Consultation.* To the extent practicable, the States should be consulted before any action under this paragraph C. is implemented.

In determining whether consultation is "practicable" in a given case, the Department will consider whether consultation is feasible in all the circumstances. Situations that might affect the feasibility of consulting with the States include the number of State and local governments and officials involved, and timing considerations for the HUD action.

Consultation encompasses a wide spectrum of possibilities. At the "full" end, consultation could include personal contact with all State officials involved at the earliest stages of the policy development process, and could accord these officials a controlling voice in the content of the proposal. On the other end of the spectrum, consultation could include "bouncing the proposal off" a small number of officials late in the process or soliciting views on the proposal in **Federal Register** documents, when the fundamental policy proposal has relatively clear definition.

Given the accordion-like quality of "consultation," the Department believes that the best approach is to permit the content of the consultation to vary with the proposed policy action. This approach is very much in keeping with the "should" nature of the provision, and makes sense as a way of tailoring the degree of consultation to the specific action involved. In making this determination, factors that would affect the degree of consultation include: The seriousness of the Federal intrusion into State affairs, the seriousness of the Federal action proposed to be taken, the timing considerations involved in the proposed Federal action, and how much discretion HUD has in developing and implementing the policy.

In fashioning the nature of the consultation with State officials, the Department will be mindful of the Advisory Committee Act. This Act requires consultations that meet its criteria to be conducted in a formal way, including providing notice of meetings and holding meetings on the record. The Department will determine on a case-by-case basis whether this degree of formality is warranted.

The Department also wishes to note that the consultation referred to in the Order should not be confused with "negotiated rule making." Under "negotiated rule making," Federal agencies would identify individuals and entities, and groups representing them, that fairly represent the issues and viewpoints that are likely to arise in connection with the rule making. These individuals and groups would work with the agency to decide upon the content of the rule before it is published in the Federal Register. The Department does not consider the consultation provision of the Order as requiring, or even suggesting, a move to "negotiated rule making," and will instead integrate the consultation that is to be accorded in each case into the Department's existing rule making procedures.

(3) *National policies administered by the States.* With respect to national policies administered by the States, the agency should give the States the maximum administrative discretion possible. Intrusive, Federal oversight of State administration is neither necessary nor desirable.

This requirement has the potential for considerable effect upon the Department's policy initiatives, since many of the Department's programs involve the use of States or their political subdivisions to carry out national policies. Examples of such programs include the Public and Indian Housing program (administered by PHAs) and the Community Development Block Grant (CDBG) program (administered by States and Entitlement grantees).

(4) *Undertaking to formulate and implement policies.* Before the policy development process begins, or as soon thereafter as possible:

(i) *Encouragement of States.* HUD will encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States.

As in the case of consultation, the form and degree of encouragement that HUD will give will vary with the facts of the individual case.

(ii) *Uniform, national standards.* HUD will refrain, to the maximum extent possible, from establishing uniform, national standards for its programs and activities and, when possible, will defer to the States to establish such standards.

Under this criterion, HUD will set uniform, national standards only where it determines, on the basis of all the facts of a given policy initiative, that such action is necessitated by factors such as the requirements of Federal law, or that providing for variations in the statutory or regulatory scheme is necessary to the achievement of some other Federal purpose. The term, "standards," will be interpreted broadly, to include Federal program requirements that States and their political jurisdictions must meet.

(iii) *Consultation.* When HUD establishes uniform, national standards under this paragraph C.(5), it will consult with appropriate officials and organizations representing the States in developing the standards. See the discussion of what constitutes "consultation" in section C.(3)(iv) of this Notice.

D. Agency Implementation

(Section 6 of the Order)

(1) *Designated Official.* (Section 6(a) of the Order)

As noted earlier, on January 4, 1988, the Secretary designated the General Counsel as the Designated Official.

(2) *Federalism Assessment—*

(i) *Determination to prepare Assessment.* (Section 6(b) of the Order) The Designated Official will review each HUD policy initiative that is subject to review under the Order (as provided by Section II.B.(1) of this Notice), and will determine which (if any) have sufficient "federalism implications" to warrant preparation of a Federalism Assessment. A Federalism Assessment will be prepared for each initiative for which the Designated Official makes the determination.

In making this determination, the Designated Official will consider all the facts and circumstances of the initiative, including (but not limited to) (A) the strength and nature of the "federalism implications" that the policy would have on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the varius levels of government; (B) how widespread the initiative's effects would be; (C) the extent of HUD's discretion in undertaking the initiative; and (D) the extent to which a Federalism Assessment would be a useful tool in elucidating the issues involved and positioning the initiative for internal HUD review, including review by the Secretary.

(ii) *Content of Assessment.* (Section 6(c) of the Order) Each Federalism Assessment will:

(A) Contain the Designated Official's certification that the policy initiative has been assessed in light of the Fundamental Federalism Principles under Section III.B. and Appendix A. of this Notice, the Federalism Policymaking Criteria under Section III.C. of this Notice, the special requirements for legislative proposals under Section IV. of this Notice, and the special requirements for preemption of State law by Federal statutes or regulations under Section V. of this Notice.

(B) Identify any provision or element of the policy initiative that is inconsistent with the provisions of these Sections.

(C) Identify the extent to which the policy initiative imposes additional costs or burdens in the states, including the likely source of funding for the States and the ability of the States to fulfill the purposes of the policy.

(D) Identify the extent to which the policy would affect the States' ability to discharge traditional State governmental functions, or other aspects of State sovereignty. See Section C. of this Notice for the meaning of the terms in this paragraph (D).

It should be noted that a finding that a policy initiative is inconsistent with the Order's precepts does not (except as provided for proposed legislation by Section IV. of this Notice) automatically operate to prevent a proposal form proceeding forward. Instead, the initiative may proceed with internal HUD review, OMB analysis, and even implementation, in appropriate circumstances.

(iii) *Review by Secretary.* (Section 6(b).)

The Secretary will personally consider Federalism Assessments at any decisional point in the policy formulation and implementation process that the Secretary deems appropriate, but no later than any step in the process at which a significant decision is made to further the proposal's eventual implementation.

Consistent with this guidance, the final point at which the Secretary will review Federalism Assessments for each of the policy initiatives subject to the Order, is as follows:

(A) *Regulations and policy statements:* Before the regulation or statement is sent to OMB for review under Executive Order 12291.

(B) *Legislative comments and proposed legislation:* Before the comment or proposal is transmitted to its intended recipent.

(C) *Policy actions:* At the final stage in the policy formulation and implementation process at which a significant decision is made to further the proposal's eventual implementation.

E. Federalism Impact Statement

Each regulation preamble, statement of policy, letter transmitting proposed legislation or legislative comments, and

other appropriate document expressing HUD policy will contain a "Federalism Impact Statement." The "Statement" will be similar to that currently required for the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1165 (1980) (*codified at* 5 U.S.C. 601–612 (Supp. V 1981)). The "Statement" will discuss the proposal's federalism impacts, irrespective of whether the proposal meets the Order's threshold of applicability under Section II.B.(1) of this Notice. Its length, and the depth in which the federalism issues will be discussed, will depend on the number, complexity, and weight of the federalism issues involved.

F. OMB Review

(Sections 6(c) and 7(b) of the Order.)

In submissions to OMB under Executive Order 12291 and Circular A–19, HUD will identify any proposed regulatory and statutory provision that contains policies with federalism implications, will include any current Federalism Assessment prepared for the initiative under Section III.D.(2) of this Notice, and will address any federalism concerns that HUD determines to be substantial.

IV. Special Requirements for Legislative Proposals

(Section 5 of the Order.)

A. In General

HUD will not transmit to Congress, formally or informally, proposed legislation that meets any of the criteria of this Section. As noted in Section B. of this Notice, this section establishes a threshold for policy initiatives contained in proposed legislation, that operates irrespective of the "federalism implications" involved. Proposals that do not pass this threshold may not be transmitted to Congress.

Proposals that do meet this threshold are subject to further review under main body of the Order. This conclusion is clear in the case of paragraphs B. and C. of this Section. Each of these provisions involves an "up or down" determination. If the proposal passes applicable test, the Department only knows that the initiatives does not have the offending characteristics; these provisions shed no light on the suitability of the proposal from the federalism perspective, and thus, must have their "federalism implications" reviewed under the main body of the Order.

Paragraph D. of this Section involves a slightly different situation. This provision not only indicates what may be proscribed—preemption of State law—but also supports to estalish a test for determining what type of preemption will be acceptable—that which is consistent with the Fundamental Federalism Principles in Section III.B. and has a "clearly legitimate national purpose." As noted in greater detail below, this provision's test of acceptability is essentially the same as the requirement in section III.C.(3)(ii) of this Notice, that the policy action be "necessitated by the presence of a problem of national scope."

The Department does not believe that a proposal that meets this test should be exempted from further review of its "federalism implications" under the Order. The provision's test focuses on a limited aspect of the proposal's federalism acceptability. It fails to address many of the other significant features of the Order, including consultation with affected governmental entities; limiting the preemption to the minimum necessary to achieve the Federal objective; giving States the greatest administrative discretion possible; and refraining from establishing uniform, national standards for Federal programs. As noted earlier, the presence of some of these additional provisions in the preemption requirements of Section V. of this Notice lends support to the conclusion that that Section should be considered a "complete system," separate and apart from the other elements of the Order.

In this case, the Department believes that the *absence* of these additional provisions leads to the conclusion that paragraph D. of this Section should be viewed as affording a "first cut" at proposed preemptive legislation: An initial threshold that if met, depends upon the remainder of the Order to ensure its overall consistency with the Order's precepts. Thus, proposed legislation that meets the threshold under any of the provisions of this Section is subject to further review and analysis under the main provisions of the Order.

B. Direct regulation of States

HUD may not directly regulate the States in ways that would interfere with functions essential to the States' separate and independent existence or operate to directly displace the States' freedom to structure integral operations in areas of traditional governmental functions.

The Department believes that the term, "directly regulate," is best interpreted as reaching only instances of "pure regulation" of the States: *viz.*, where the purpose and direct effect of the Federal action is to control some aspect of State policy making, such as in the case of the wage and hour standards requirements under *National League of Cities* and *Garcia*. Thus, this provision will not affect the vast majority of HUD policy initiatives that deal with benefit programs. As noted earlier, although benefit programs may impose conditions on their receipt and use, any such conditions—however significant—are merely an *incident* to achieving the purpose of the program involved, and cannot be said to be an attempt to "directly regulate" the State.

The types of "direct regulation" that Section 5(a) proscribes—that which interferes with essential State functions or displaces State policy making prerogatives—is discussed more fully in Section III.A. of this Notice.

It should be noted that if a policy initiative that falls within this paragraph B. involves the preemption of State law, the initiative must meet the thresholds under *both* this paragraph *and* paragraph D. of this Section.

C. Conditions on Assistance

HUD may not attach to its legislation proposals conditions that are not directly related to the purpose of the proposal.

The Order limits the coverage of this provision to "grants." The Department believes that "grants" is unduly narrow. HUD administers a number of programs offering a wide range of "assistance," such as grants, loans, loan guarantees, interest or rental assistance, and mortgage and loan insurance. The concern expressed in the Order—that any conditions be directly related to the policy initiative—is valid across all HUD programs. Therefore, in implementing this provision, the limit on conditions will apply to all HUD legislative proposals, irrespective of the nature of the form of assistance involved.

The Department will consider "conditions" broadly, to mean statutory requirements associated with a legislative proposal. In determining whether a condition is "directly related" to the proposal's purpose, the Department will consider all the circumstances of the proposal, particularly the extent to which the condition has a direct and important effect on the proposal's ability to carry out one or more of its objectives.

D. Preemption.

HUD may not preempt State law, unless (i) preemption is consistent with the Fundamental Federalism Principles referred to in Section D. and Appendix A of this Notice, and (ii) a clearly legitimate national purpose, consistent with the Federalism Policymaking

Criteria described in Section E. of this Notice, cannot otherwise be met.

The Department believes that the requirement that a permissible preemption involve a "clearly legitimate national purpose that cannot otherwise be met" states a clear standard: the Department is to examine the purpose of the proposal and examine whether the preemption is necessary to its effectuation. This requirement would apply to all types of proposed preemptions, whether they involved "pure regulation" or benefit programs.

However, the meaning of the requirement that the "national purpose" be "consistent with" the Federalism Policymaking Criteria is not entirely clear. The only reference in the Criteria pertaining to national policies is the "problem of national scope" requirement of Section III.C.(2)(ii) of this Notice. As noted in that Section, the Department believes that this requirement pertains to areas of "pure regulation" in which Federal action is required to address a demonstrable, nation-wide problem that the States, acting alone or in concert, do not have, or cannot obtain, the legal capacity to handle effectively.

To give full meaning to the "national purpose" language and the requirement for consistency with the Federalism Policymaking Criteria, the Department will use a two-part test. All proposed preemptions will have to demonstrate that they involve a clearly legitimate national purpose that cannot otherwise be met. In addition, preemptions involving "pure regulation" will have to meet the "problem of national scope" standard described above.

V. Special Requirements for Preemption

A. In general

As noted above, this Section establishes a complete system for the review and analysis of preemptions of State law by Federal statutes and regulations. This Section operates independently from the remainder of the Order, and is the sole determinant of the suitability under the Order of any matter involving statutory or regulatory preemption.

B. Statutory preemption

(Section 4(a) of the Order.)

To the extent permitted by law, HUD will construe (in regulations, legal opinions, and otherwise) a Federal statute to preempt State law only when the statute contains an express preemption provision or there is some other firm and palpable evidence compelling the conclusion that the Congress intended preemption of State law, or when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute.

The doctrine of Federal preemption of State law recently summarized by the United States Supreme Court, as follows:

It is a familiar and well-established principle that the Supremacy Clause, U.S. Const., Art. VI, cl. 2, invalidates state laws that "interfere with, or are contrary to" federal law. *Gibbons v. Ogden*, 9 Wheat. I, 211 (1824) (Marshall, C.J.). Under the Supremacy Clause, federal law may supersede state law in several different ways. First, when acting within constitutional limits, Congress is empowered to preempt state law by so stating in express terms. *Jones v. Rath Packing Co.*, 430 U.S. 519, 525 (1977). In the absence of express pre-emptive language, Congress' intent to pre-empt all state law in a particular area may be inferred where the scheme of Federal regulation is sufficiently comprehensive to make reasonable the inference that Congress "left no room" for supplementary state regulation. *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947). Pre-emption of a whole field also will be inferred where the field is one in which "the federal interest is so dominant that the Federal system will be assumed to preclude enforcement of state laws on the same subject." *Ibid;* see *Hines v. Davidowitz*, 312 U.S. 52 (1941).

Even where Congress has not completely displaced state regulation in a specific area, state law is nullified to the extent that it actually conflicts with Federal law. Such a conflict arises when "compliance with both federal and state regulations is a physical impossibility," *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142–143 (1963), or when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," *Hines v. Davidowitz, supra*, at 67. [*Hillsborough County, Florida v. Automated Medical Laboratories, Inc.*, 471 U.S. 707, 712–13 (1985)].

Section 4(a) appears to track closely the Supreme Court's tests for determining when a Federal statute may be interpreted as preempting State law. It should be noted, however, that the Order's call for "firm and palpable evidence compelling the conclusion that Congress intended preemption of State law" seems somewhat more stringent than the Supreme Court's tests of when preemption will be inferred in the absence of express preempting language or a direct conflict between the State and Federal law. As noted above, the Supreme Court's tests for determining when preemption will be inferred are (1) "where the scheme of federal regulation is sufficiently comprehensive to make *reasonable the inference* that Congress left no room" for State regulation and (2) "where the field is one in which the federal interest is so dominant that the federal system will be *assumed* to preclude enforcement of state laws on the same subject." (Emphasis added.) Both of these tests may be satisfied by a lesser degree of intent to preempt than the Order's "firm and palpable evidence" test.

In many cases, determining whether a preemption will be inferred under Section 4(a) of the Order and the Supreme Court's approach will yield the same conclusion. Section 4(a)'s requirement for "firm and palpable evidence" of congressional intent can be met by a Federal statutory provision that contains sufficiently strong evidence that Congress intended to "leave no room" for State law or to preclude State regulation. In these cases, the analysis of legislative intent satisfies both the Supreme Court's tests and Section 4(a)'s "firm and palpable evidence" standard. There may well be circumstances, however, where a given proposed preemption may pass muster under the Supreme Court's "reasonable inference" and "assumed prohibition of enforcement" tests, but not meet the requirement for "firm and palpable evidence."

In administering Section 4(a) of the Order, the Department will consider the "firm and palpable evidence" test not as creating a *new standard* for the preemption of State law, but rather as specifying the *strength of congressional intent* needed to justify a preemption. Thus, the Department will apply the "firm and palpable" evidence test to the Supreme Court's framework for determining whether a Federal statute should be considered preemptive. Specifically, the Department will infer preemption where (1) the scheme of Federal regulation is sufficiently comprehensive to provide firm and palpable evidence that Congress intended to leave no room for State regulation or (2) the field is one in which the Federal interest is sufficiently dominant to provide firm and palpable evidence that Congress intended to preclude enforcement of State laws on the same subject.

C. Regulatory Preemption

(Section 4(b) of the Order.)

Where a Federal statute does not preempt State law, HUD will construe any authorization in the statute for the issuance of regulations as authorizing

preemption of State law by rule making only if the statute expressly authorizes issuance of preemptive regulations or there is some other firm and palpable evidence compelling the conclusion that the Congress intended to delegate to the Department the authority to issue regulations preempting State law.

Current case law dealing with regulatory preemption requires a comparison between State law and the Federal law being implemented by regulation, and a rational determination by the agency that the State law imposes an obstacle to the Federal objective, considered as a whole. In the words of *Capital Cities Cable* v. *Crisp*, 467 U.S. 691, 699 (1984), "compliance with the State law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (See also *Fidelity Federal Savings and Loan* v. *de la Cuesta*, 458 U.S. 141 (1982), the FHLBB "due on sale" case.)

As in the case of statutory preemption under Section 4(a) of the Order, the Department interprets Section 4(b)'s reference to "firm and palpable evidence compelling the conclusion that Congress intended to delegate * * * the authority to issue" preemptive regulations, as requiring a higher standard of intent for sanctioning regulatory preemption than that found in case law. The Department will treat this issue in the same way as statutory preemption (discussed in the preceding paragraph). Specifically, in determining whether grounds for regulatory preemption exist, the Department will consider whether there is firm and palpable evidence that compliance with the State law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of the Congress.

D. Minimum Preemption Necessary

(Section 4(c) of the Order.)

Any regulatory preemption of State law will be limited to the minimum necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.

This provision contains the classic "minimum necessary to achieve ends" test. In making determinations under this provision, the Department will closely examine all the circumstances surrounding the proposed preemption, including the objectives of the Federal statutory and regulatory provisions, the State provisions affected, the degree of Federal intrusion into the State law, and how the Federal regulation can be devised to minimize the effect on State law.

E. Consultation

(Section 4(d) of the Order.)

When HUD foresees the possibility of a conflict between State law and federally protected interests within its area of regulatory responsibility, HUD will consult, to the extent practicable, with appropriate officials and organizations representing the States to avoid the conflict.

HUD construes the phrase "federally protected interests within [the agency's] area of regulatory responsibility" as any legislative or regulatory proposal that may have preemptive effect.

F. Notice and Opportunity For Participation

(Section 4(e) of the Order.)

When HUD proposes to preempt State law through adjudication, or rule making under 24 CFR Part 10, HUD will, to the maximum extent practicable, provide all affected States notice and an opportunity for appropriate participation in the proceedings.

For informal rule making, which makes up the vast majority of the Department's regulatory activity, this requirement will generally involve publication of the proposal in the **Federal Register**, with reasonable opportunity for affected States and others to provide written comment on the proposal. In appropriate cases, HUD may provide for alternative means of notifying affected parties and securing their participation in the process.

In rule makings subject to this paragraph F., HUD will generally not proceed by interim rule or by final rule (without prior notice and opportunity for participation), even where such proceedings would otherwise be justifiable. However, if the rule making involves an emergency matter, or congressional-, OMB-, or court-ordered deadlines that make advance notice and opportunity to comment impracticable, the Department will provide alternative means of securing participation of interested parties in the proceeding to the greatest extent possible, consistent with the circumstances involved.

VI. Judicial Review

(Section 8 of the Order.)

The Order and this Notice are intended only to improve the internal management of the Executive Branch, and are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

VII. Intergovernmental Review of Federal Programs

(Section 3(a) of the Order.)

Executive Order 12372, *Intergovernmental Review of Federal Programs*, remains in effect for the programs and activities to which it applies.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Dated: August 9, 1988.

J. Michael Dorsey,

General Counsel.

Appendix A

Sec. 2. Fundamental Federalism Principles

In formulating and implementing policies that have federalism implications, Executive departments and agencies shall be guided by the following fundamental federalism principles:

(a) Federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government.

(b) The people of the United States created the national government when they delegated to it those enumerated government powers relating to matters beyond the competence of the individual States. All other sovereign powers, save those expressly prohibited the States by the Constitution, are reserved to the States or to the people.

(c) The constitutional relationship among sovereign governments, State and national, is formalized in and protected by the Tenth Amendment to the Constitution.

(d) The people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Acts of Congress, to define the moral, political, and legal character of their lives.

(e) In most areas of governmental concern, the States uniquely possess the constitutional authority, the resources, and the competence to discern the sentiments of the people and to govern accordingly. In Thomas Jefferson's words, the States are "the most

competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies."

(f) The nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires. In the search for enlightened public policy, individual States and communities are free to experiment with a variety of approaches to public issues.

(g) Acts of the national government—whether legislative, executive, or judicial in nature—that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the Framers.

(h) Policies of the national government should recognize the responsibility of—and should encourage opportunities for—individuals, families, neighborhoods, local government, and private associations to achieve their personal, social, and economic objectives through cooperative effort.

(i) In the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States. Uncertainties regarding the legitimate authority of the national government should be resolved against regulation at the national level.

Appendix B—Implementation of Executive Order 12612, Federalism

Appendix B contains a form that should be filled out for each HUD policy initiative that is subject to Executive Order 12612. The form is based upon the guidance set forth in the rest of this notice.

The form has three sections:

1. *Section I.* Governs the preemption of State law by Federal statutes and regulations. (Section 4 of the Order and Sections II.D. and V. of the Notice.)

2. *Section II.* Contains special requirements for proposed legislation. (Section 5 of the Order and Sections II.C. and IV. of the Notice.)

3. *Section III.* Prescribes standards for the review and analysis of initiatives that have policies with federalism implications. (Sections 1 through 3 and 6 and 7 of the Order, and Sections II.B. and III. of the Notice.)

In filling out this form, each of the sections, and the questions in each of the sections, should be answered in numerical order. The following overall guidance should be noted:

(A) If the proposal involves the preemption of State law by Federal statutes or regulations, *only* Section I. should be filled out.

(B) If the proposal involves proposed legislation, Section II. should be answered.

(C) If the proposal involves:

(i) Proposed legislation that is not barred from transmission to Congress under Section II., or

(ii) Any other policy initiative, other than a preemption under Section I.

Section III. Should be addressed.

Each section contains specific guidance for answering its paragraphs.

I. PREEMPTION OF STATE LAW BY FEDERAL STATUTES OR REGULATIONS

DESCRIPTION OF INITIATIVE:
NATURE OF INITIATIVE:

——— Regulation.
——— Proposed legislation.
——— Legislative comment.
——— Policy statement.
——— Other policy action (specify):

A. APPLICABILITY: Does the proposed preemption involve the preemption of State law by a Federal statute or regulation —— YES —— NO

IF THE ANSWER IS NO, PROCEED TO SECTIONS II AND III

IF THE ANSWER IS YES, PROCEED WITH THE REST OF THIS SECTION ONLY: WHEN THIS SECTION IS COMPLETED, PROCEED NO FARTHER WITH THIS FORM.

B. STATUTORY OR REGULATORY PREEMPTION:

1. What is the nature of the preemption:
By statute? —— YES —— NO
By regulation? —— YES —— NO
Explain:

2. Does the proposed preemption meet the guidance provided in Section V.B. OR C. of the Notice for statutory OR regulatory preemption, as appropriate?
—— YES —— No (This determination and explanation will be made by the Office of Legislation and Regulations.) Explain:

C. *MINIMUM PREEMPTION NECESSARY—REGULATORY PREEMPTION.* For preemption by regulation only, is the preemption limited to the minimum necessary to achieve the objectives of the authority under which the regulation is promulgated?
—— YES —— NO Explain:

D. *CONSULTATION.* Explain the steps that have been taken, or are planned, to consult with appropriate officials and organizations to avoid preemption:

II. SPECIAL REQUIREMENTS FOR PROPOSED LEGISLATION.

DESCRIPTION OF INITIATIVE:
NATURE OF INITIATIVE:

——— Regulation.
——— Proposed legislation.
——— Legislative comment.
——— Policy statement.
——— Other policy action (specify):

A. *APPLICABILITY.* Does the proposal involve proposed legislation? —— YES —— NO.

IF THE ANSWER IS NO, PROCEED TO SECTION III

IF THE ANSWER IS YES, CONTINUE WITH THE REST OF THIS SECTION

B. *DIRECT REGULATION OF STATES.* Does the proposal involve "pure regulation," in which the primary purpose and direct effect of the proposal is to regulate States in certain significant areas and ways? (If the proposal involves a grant, loan, interest or rental assistance, mortgage or loan insurance, or other assistance program, the answer is NO.)
—— YES —— NO. (The Office of Legislation and Regulations will make this determination and provide the explanation.) Explain:

C. *CONDITIONS ON ASSISTANCE.* Does the proposal involve conditions that are not directly related to its purpose?
—— YES —— NO. (The Office of Legislation and Regulations will make this determination and provide the explanation.) Explain:

D. *PREEMPTION.*

1. *In general.* Does the proposal involve preemption of State law (other than a preemption under Section I.)?
—— YES —— NO. Explain:

2. *Threshold.* If the answer is YES, (a) is the proposed preemption consistent with the Fundamental Federalism Principles in Appendix A of the Notice and (b) does the proposed preemption involve a clearly legitimate national purpose that cannot otherwise be met, and in the case of "pure regulation," is the Federal preemption necessary to address a demonstrable, nationwide problem that States, acting alone or in concert, do not have, or cannot obtain, the legal capacity to handle effectively?
—— YES —— NO (The Office of Legislation and Regulations will make this determination and provide the explanation.) Explain:

IF THE ANSWER TO EITHER QUESTION B. OR C. IS YES, OR IF THE ANSWER TO QUESTION D.2. (a) OR (b) IS NO, THE PROPOSAL MAY NOT BE SENT TO CONGRESS. OTHERWISE, PROCEED TO SECTION III

III. POLICIES THAT HAVE FEDERALISM IMPLICATIONS

DESCRIPTION OF INITIATIVE:
NATURE OF INITIATIVE:

——— Regulation.
——— Proposed legislation.
——— Legislative comment.
——— Policy statement.
——— Other policy action (specify):

A. *APPLICABILITY OF ORDER.* Does the Order apply to the policy initiative?

1. *Effects on States.* Does the initiative have "federalism implications:" does it have, or will it have when implemented, substantial direct effects on the States (including their political subdivisions), or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government?

—— YES —— NO. Explain:

IF THE ANSWER TO THIS QUESTION IS NO, PROCEED NO FARTHER WITH THIS FORM

IF THE ANSWER IS YES, PROCEED TO PARAGRAPH 2. OF THIS SECTION

2. *Need for review under Order.*

a. *Lack of HUD discretion.* Do the elements of the initiative that have "federalism implications" involve little or no HUD discretion?

—— YES —— NO. If YES, explain:

b. *Review is unnecessary.* Would review of the elements of the initiative that have "federalism implications" be unnecessary, because review is not feasible, further review would be redundant, or otherwise?

—— YES —— NO. If YES, explain:

c. *Inspector General.* Does the initiative involve a function of the Inspector General under the Inspector General Act of 1978?

—— YES —— NO. If YES, explain:

IF THE ANSWER TO PARAGRAPH 2.a., b., OR c. is YES PROCEED NO FARTHER WITH THIS FORM. OTHERWISE, PROCEED TO THE REST OF SECTION III

B. *FUNDAMENTAL FEDERALISM PRINCIPLES.* Has the formulation and implementation of the policy initiative been guided by the Fundamental Federalism Principles referred to in Section III.B. and Appendix A of the Notice?

—— YES —— NO

C. *FEDERAL POLICYMAKING CRITERIA.*

1. *Limit the policymaking discretion of States.*

a. *Applicability.* Does the policy initiative involve matters of "pure regulation," in which the primary purpose and direct effect of the policy is to regulate some aspect of State interest? (If the policy initiative involves a grant, loan, interest or rental assistance, mortgage or loan insurance, or other assistance program, the answer is NO.)

——YES ——NO Explain:

IF THE ANSWER TO THIS QUESTION IS YES, PROCEED WITH THE REST OF PARAGRAPH C.1. OF THIS SECTION. IF THE ANSWER IS NO, PROCEED TO PARAGRAPH C.2. OF THIS SECTION

b. *Statutory authority.* Indicate the statutory authority for the policy initiative:

c. *Constitutional authority.* Is the constitutional authority for the policy initiative clear and certain?

—— YES —— NO. (This answer will be provided and explained by the Office of Legislation and Regulations.) Explain:

d. *Problem of national scope.* Is action at the Federal level required to address a demonstrable, nation-wide problem that States (acting alone or in concert) do not have, or cannot obtain, the legal capacity to handle effectively? (This answer will be provided and explained by the Office of Legislation and Regulations.)

—— YES —— NO. Explain:

e. *Need for the initiative.* State the need for the policy initiative:

f. *Consultation.* State the consultation with States that has taken place, or that is planned, for the policy initiative:

2. *National policies administered by the States.* For national policies administered by the States, does the initiative give the States the maximum administrative discretion possible?

—— YES —— NO. Explain:

3. *Undertaking to formulate and implement policies.* At the earliest point in the policy development process possible, has the Department:

a. *Encouragement of States.* Encouraged States to develop their own policies to achieve program objectives and to work with appropriate officials in other States?

—— YES —— NO. Explain:

b. *Uniform national standards.* Refrained from establishing uniform, national standards and, when possible, deferred to the States to establish the standards?

—— YES —— NO. Explain:

c. *Consultation.* Consulted with the States in developing such standards?

—— YES —— NO. Explain the nature of the consultation that either has taken place or that is planned:

4. *Federalism Assessment.* Does the proposal have sufficient federalism implications to warrant the preparation of a Federalism Assessment?

—— YES —— NO. (The Office of General Counsel will determine the need for an Assessment and, if needed, will prepare it.) Explain:

[FR Doc. 88–18976 Filed 8–19–88; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of the Alaska Land Use Council

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487, dated December 2, 1980, section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Tuesday, September 20, 1988, at the Fairbanks North Star Borough Assembly Chamber, 809 Pioneer Road, Fairbanks, Alaska.

The tentative agenda for the Council will include consideration of:

National Park Service Wilderness Recommendations
- Bering Land Bridge National Preserve
- Kenai Fjords National Park
- Yukon-Charley Rivers National Preserve
- Gates of the Arctic National Park & Preserve
- Lake Clark National Park & Preserve
- Wrangell/St. Elias National Park & Preserve
- Aniakchak National Monument & Preserve
- Cape Krusenstern National Monument
- Glacier Bay National Park & Preserve
- Noatak National Preserve
- Denali National Park & Preserve
- Katmai National Park & Preserve
- Kobuk Valley National Park

U.S. Fish & Wildlife Service Wilderness Recommendations
- Alaska Peninsula National Wildlife Refuge
- Becharof National Wildlife Refuge
- Kenai National Wildlife Refuge

U.S. Fish & Wildlife Service Comprehensive Conservation Plans
- Arctic National Wildlife Refuge
- Alaska Maritime National Wildlife Refuge

BLM Utility Corridor RMP

BLM ANILCA 1001 Report

Steller Sea Lion-Northern Fur Seal Cooperative Planning Zone

Alaska Land Use Council 1987–88 Work Program

NPS Draft Management Policies.

Briefing on the Tongass Land Management Plan Revision Process.

Other items as may be appropriately considered by the Council.

Any individual desiring to appear before the Council to address any of the above matters or other matters of general concern to the Council should contact either Cochairman's office before the close of business Thursday, September 1, 1988.

The public is invited to attend.

FOR FURTHER INFORMATION CONTACT:

Alaska Land Use Council, Office of the Federal Cochairman, 1689 C Street, Suite 100, Anchorage, Alaska 99501, (907) 272–3422, (FTS) 271–5485.

Alaska Land Use Council, Office of the State, Cochairman Designee, P.O. Box AW, Juneau, Alaska 99811, (907) 465–3562.

or

2600 Denali Street, Suite 700, Anchorage, Alaska 99503, (907) 274–3528.

August 16, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–18919 Filed 8–19–88; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[OR–030–08–4322–02–GP8–222]

Vale District Grazing Advisory Board; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting, Vale District Grazing Advisory Board.

SUMMARY: Notice is given in accordance with Pub. L. 92–463 that a meeting of the Vale District Grazing Advisory Board will be held September 29, 1988.

The agenda for the meeting will include: an update on BLM activities in the Trout Creek Mountains, BLM's response and policy in dealing with the current drought, the District's riparian management program, and range improvement projects. Range improvement projects will include fiscal year 1988 accomplishments, projects which will extend into fiscal year 1989, and possible future projects.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 1:30 p.m. the day of the meeting.

Summary minutes of the Board's meeting will be maintained in the district office and will be available during regular business hours for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days following the meeting.

DATES: The meeting will begin at 8:00 a.m. September 29, 1988.

ADDRESSES: The meeting will begin at the conference room of the District Office, 100 Oregon Street, Vale, OR 97918. The meeting will continue at Poall Creek, near Brogan, Oregon, until noon. The meeting will reconvene at the Vale District Office conference room at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, P.O. Box 700, 100 Oregon Street, Vale, OR 97918.

David Lodzinski,

Acting District Manager.

[FR Doc. 88–18942 Filed 8–19–88; 8:45 am]

BILLING CODE 4310–33–M

[OR–030–08–4322–02–GP8–221]

Vale District Multiple-Use/Council Advisory Board; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of meeting, Vale District Multiple-Use Advisory Council.

SUMMARY: Notice is given in accordance with Pub. L. 92–463 that a meeting of the Vale District Multiple-Use Advisory Council will be held September 16, 1988.

The agenda for the meeting will include: an update on activities in the Trout Creek Mountains, actions taken on the proposed National Historic Oregon Trail Interpretive Center, the Recreation 2000 report, Wild Horse Program update, fire season summary, Council input on the district's riparian program, response to the 1988 drought, purposes and roles of the Advisory Council, and selection of future issues for the Council's input.

The meeting is open to the public. Interested persons may make oral statements to the Council or may file written statements for the Council's consideration. Anyone wishing to make oral statements may do so at 1:15 p.m. the day of the meeting.

Summary minutes of the Council's meeting will be maintained in the district office and will be available during regular business hours for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days following the meeting.

DATE: The meeting will begin at 9:00 a.m. September 16, 1988.

ADDRESSES: The meeting will take place in the conference room of the District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, P.O. Box 700, 100 Oregon Street, Vale, OR 97918.

David Lodzinski,

Acting District Manager.

[FR Doc. 88–18943 Filed 8–19–88; 8:45 am]

BILLING CODE 4301–33–M

National Park Service

Abandoned Shipwreck Act; Public Meetings

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of public meetings.

SUMMARY: This is to provide notice to Federal, State and local agencies, Indian tribes, sport divers, diveboat operators, salvors, archeologists, historic preservationists, fishermen and other interests that the National Park Service will be holding public meetings prior to developing and publishing the advisory guidelines required under the Abandoned Shipwreck Act of 1987 (Pub. L. 100–298). The guidelines are to assist State and Federal agencies in developing legislation and regulations to carry out their responsibilities under the Act. The Act requires that the Director of the National Park Service, acting on behalf of the Secretary of the Interior, develop the guidelines after consulting with appropriate public and private sector interests. The public meetings are designed to provide maximum opportunity for input and advice from public and private sector interests on the development of the guidelines.

DATES: Written comments are invited and should be submitted on or before October 31, 1988. Participation is invited at public meetings to be held September 7, 1988; September 13, 1988; September 14, 1988; September 19, 1988; and October 6, 1988. See **SUPPLEMENTARY INFORMATION** below for details.

ADDRESSES: Written comments should be addressed to Dr. Bennie C. Keel, Departmental Consulting Archeologist, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127, or delivered to Room 4127C, 1100 L Street NW., Washington, DC, between 8:00 a.m. and 4:30 p.m. Public meetings will be held in Washington, DC; San Francisco, California; Seattle, Washington; Austin, Texas; and Beaufort, North Carolina. See **SUPPLEMENTARY INFORMATION** below for details.

FOR FURTHER INFORMATION CONTACT: Michele C. Aubry, Office of the Departmental Consulting Archeologist, National Park Service, Washington, DC, at 202–343–1879 or FTS 343–1879. For specific meeting location information contact:

Patricia C. Knoll, Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington, DC, 20242, at 202–343–4110 or FTS 343–4410

Holly Bundock, Office of Public Affairs, Western Region, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, California 94102, at 415–556–5560 or FTS 556–5560

James Thomson, Regional Archeologist, Pacific Northwest Region, National Park Service, 83 South King Street, Suite 212, Seattle, Washington 98104, at 206–442–0791 or FTS 399–0791

J. Barto Arnold, III, Texas Underwater Archeologist, Texas Historical Commission, P.O. Box 12276, Capitol Station, Austin, Texas 78711, at 512–463–6098

Rodney Barfield, Director, North Carolina Maritime Museum, 315 Front Street, Beaufort, North Carolina 28516, at 919–728–7317.

SUPPLEMENTARY INFORMATION: The National Park Service wishes to afford an opportunity for direct public input regarding the various provisions of Pub. L. 100–298 prior to developing and publishing proposed advisory guidelines. It is the intent of the National Park Service to seek out ideas, comments and suggestions from public

and private interest groups. Accordingly, five public meetings have been scheduled as follows:

Washington, D.C.—September 7, 1988, 7:00 p.m. to 10:00 p.m. Anacostia Substation, Special Operations-Park Police Facility, Anacostia Park, between South Capitol & 11th Streets. Host: National Capital Region, National Park Service

San Francisco, California—September 13, 1988, 7:00 p.m. to 10:00 p.m. Golden Gate National Recreation Area, Fort Mason, Headquarters Building 201, General Meeting Area (1st floor). Host: Western Region, National Park Service

Seattle, Washington—September 14, 1988, 6:30 p.m. to 10:30 p.m. Federal Office Building, South Auditorium Conference Room, 909 First Avenue (entrance on 1st Ave. side). Host: Pacific Northwest Region, National Park Service

Austin, Texas—September 19, 1988, 6:30 p.m. to 10:30 p.m. Stephen F. Austin State Office Building, Room 118, 17th & Congress. Hosts: Texas Historical Commission and Texas Antiquities Committee

Beaufort, North Carolina—October 6, 1988, 12:00 p.m. to 2:00 p.m. North Carolina Maritime Museum, Auditorium, 315 Front Street. Hosts: North Carolina Maritime Museum and North Carolina Historic Preservation Office

Because of limited monetary and human resources, the National Park Service has selected the locations for public meetings based on the following criteria:

(1) Offers from States and others to host public meetings;

(2) The ability of the National Park Service to combine public meetings with other program related travel;

(3) The size of the local diving community;

(4) The amount of tourist related diving activity;

(5) The proximity to large numbers of historic shipwrecks; and

(6) The availability of public transportation, including commercial air transportation, to the location.

Additional public meetings are being considered for Montpelier, Vermont; Sault Ste. Marie, Michigan; New Orleans, Louisiana; Orlando, Florida; Savannah, Georgia; and Philadelphia, Pennsylvania. Any additional meetings would be scheduled to take place during the month of October, with comments due on or before October 31, 1988. A separate notice would appear in the **Federal Register** to announce any additional meetings.

Public Meeting Procedures

Any individual may appear and speak on his or her own behalf or, if so authorized, on behalf of a Federal, State or local Government, Indian tribe, civic group, business, club, association or private group, subject to the rules provided below. Each organization may have one authorized speaker. The Moderator will announce any specific rules to govern the meeting as required at the beginning of the hearing.

Individuals desiring to speak at the public meeting are encouraged to pre-register by writing to or calling the appropriate contact person above. Before the hearing begins, individuals also may register to speak by notifying the Court Reporter, who will be making a transcript of the meeting.

Elected and other public and tribal officials will be heard first, followed by representatives of other organizations. Persons registered to speak on their own behalf will then be called in the order in which they registered.

Speakers should give their name and address or, if representing an organization, their name and the organization's name and address.

Speakers representing organizations will be limited to ten (10) minutes, and individuals to five (5) minutes. Additional prepared statements pertaining to the subject may be submitted to the Court Reporter at the public meeting or to Dr. Bennie C. Keel at the above address.

The National Park Service has identified the following issues to be of major interest and in need of discussion at the public meetings:

1. How should an historic shipwreck be defined?

2. Should the States retain title to all artifacts and materials recovered from abandoned historic shipwrekcs? If not, what portion should be retained?

3. What, if any, restrictions should be placed on sport divers, salvors, fishermen, scientific researchers, and others desiring access to abandoned historic shipwreck sites?

4. What, if any, restrictions should be placed on sport divers, salvors, fishermen, scientific researchers, and others on removal of artifacts from abandoned historic shipwreck sites?

5. What, if any, penalties or fines should be assessed against sport divers, salvors, fishermen, scientific researchers, and others who violate provisions in a State's program to manage historic shipwrecks?

6. Should monetary rewards or other incentives be made available for reporting the discovery of historic shipwreck sites or the violation of provisions in a State's program?

7. Should the States provide training courses to sport divers on archeological methods that would lead to paraprofessional certification?

8. Should the States encourage and use sport diver volunteers during the conduct of archeological surveys and excavations of historic shipwreck sites?

Background

Upon enactment of the Abandoned Shipwreck Act of 1987 (the Act, 43 U.S.C. 2101 *et seq.*), the United States immediately asserted title to three classes of abandoned shipwrecks that are located in or on the submerged lands of a State. Specifically, the United States asserted title to any abandoned shipwreck that is:

(1) Embedded in a State's submerged lands;

(2) Embedded in coralline formations protected by a State on its submerged lands; or

(3) On a State's submerged lands and included in or determined eligible for inclusion in the National Register of Historic Places.

The Act removes the three classes of abandoned shipwrecks from the jurisdiction of the law of salvage and the law of finds.

With two exceptions, simultaneously with the U.S. assertion of title, the United States transferred title of the three classes of abandoned shipwrecks to the State in or on whose submerged lands the shipwreck is located. The exceptions relate to any abandoned shipwreck that is located in or on public (meaning Federal) lands or Indian lands. The Act states that any abandoned shipwreck that is located in or on public lands remains the property of the United States Government while any abandoned shipwreck that is located in or on Indian lands remais the property of the Indian tribe owning such lands.

In transferring title of the three classes of abandoned shipwrecks to the States, the Act states that it is the intent of the Congress that the States manage shipwrecks in a manner that will:

(1) Protect natural resources and habitat areas;

(2) Guarantee recreational exploration of shipwreck sites; and

(3) Allow for appropriate public and private sector recovery of shipwrecks, consistent with the protection of historical values and the environmental integrity of the shipwrecks and the sites.

In addition, States are encouraged to establish underwater parks or areas to provide additional protection for shipwreck sites. States also are directed to make funds available, in accordance with the provisions of the National

Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), from the Historic Preservation Fund for the study, interpretation, protection and preservation of historic shipwrecks.

Section 5 of the Act directs the Secretary of the Interior, acting through the Director of the National Park Service, to prepare and publish guidelines to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under the Act. The Act states that the guidelines shall seek to:

(1) Maximize the enhancement of cultural resources;

(2) Foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) Facilitate access and utilization by recreational interests; and

(4) Recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

The Act stipulates that the guidelines are to be developed after consultation with appropriate public and private sector interests, including the Secretary of Commerce, the Advisory Council on Historic Preservation, State Historic Preservation Officers, sport divers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen. It also stipulates that the guidelines are to be published in the **Federal Register** within nine months after the date of enactment of the Act.

The National Park Service has prepared a plan and schedule to develop the advisory guidelines. The major components of the pan are to:

(1) Examine existing State programs for the management of abandoned shipwrecks that are located in State waters;

(2) During the fall of 1988, hold a series of public meetings at key locations nationwide so that all public and private interests have an opportunity to present their views;

(3) By January 28, 1989, draft and publish in the **Federal Register** proposed guidelines for public comment; and

(4) Revise and publish final advisory guidelines shortly thereafter.

Dated: August 17, 1988.

Denis P. Galvin,

Acting Director, National Park Service.

[FR Doc. 88–18947 Filed 8–19–88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[No. MC-F-19190]

Adirondack Transit Lines, Inc., And Pine Hill-Kingston Bus Corp.—Pooling—Greyhound Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of pooling application.

SUMMARY: By application filed June 22, 1988, Adirondack Transit Lines, Inc., and Pine Hill-Kingston Bus Corp. (collectively, Adirondack) and Greyhound Lines, Inc. (Greyhound), jointly request approval of a pooling arrangement under 49 U.S.C. 11342(a) to pool portions of their services between Albany, NY and New York, NY over Interstate Highway 87. Under the proposed pooling arrangement, Adirondack and Greyhound will coordinate schedules and pool package express. During the period covered by the agreement, the petitioners will coordinate and whenever appropriate consolidate their scheduled bus operations over the involved route. Petitioners will not unilaterally change the number or share of schedules operated over all or any segment of the involved route.

By entering into a service pooling agreement, the carriers seek to increase the number of passengers per bus and spread their schedules more evenly through the day. The petitioners do not intend to pool revenues or to share expenses arising from operations of the schedules governed by their agreement. If other intercity bus carriers operating between the pooled points wish to be included in the service pooling agreement, Adirondack and Greyhound are prepared to negotiate their participation.

DATE: Comments on the proposed agreement may be filed with us in the form of verified statements on or before September 21, 1988. Petitioners' rebuttal statements are due on or before October 11, 1988.

ADDRESSES: Send verified statements to:

(1) Office of the Secretary, Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioners' representatives:

Lawrence E. Lindeman, Suite 400, 805 King Street, Alexandria, VA 22314.

George W. Hanthorn, Esq., Greyhound Lines, Inc., 901 Main Street, Suite, 2400, Dallas, TX 75202.

Fritz R. Kahn, Esq., 1660 L Street, NW., Suite 1000, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Judy Ann Barnes, (202) 275–7962. Richard Felder, (202) 275–7691. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: The involved service encounters competition from other modes of transportation. Albany and New York City are served by Amtrak, American Eagle, Continental Express, Delta Connection, Eastern Express, Mall Airways, Pan Am Express, and Piedmont Regional Airline. Albany is served by Interestate Highway 87 and 90, and New York City by Interstate Highway 78, 80, 87, and 95. Bonanza Bus Lines, Inc., another intercity bus line, also operates between Albany and New York City.

Please refer to the pooling application, which may be obtained free of charge by contacting petitioners' representatives. In the alternative, the pooling application may be inspected at the offices of the Interstate Commerce Commission, Room 1221, during usual business hours, (assistance for the hearing impaired is available through TDD service (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission Headquarters).

Decided: August 15, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–18959 Filed 8–19–88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-279 (Sub-No. 2X)]

Canadian National Railway Co.; Exemption Abandonment in Portland, ME

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Canadian National Railway Company of approximately 11,555 feet of track including 15 turnouts, in Portland, ME, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 21, 1988. Petitions to stay and formal expressions of intent to file an offer [1] of financial assistance under 49

[1] *See Exemption of Rail Line Abandonments or Discontinuance Offers of Financial Assistance.* 4

Continued

CFR 1152.27(c)(2) must be filed by September 1, 1988 and petitions for reconsideration must be filed by September 12, 1988. Requests for a public use condition must be filed by September 1, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB–279 (Sub-No. 2X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Charles A. Spitulnik, Hamel & Park, Suite 700, 888-16th Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: August 15, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–18960 Filed 8–19–88; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 233X)]

Exemption; CSX Transportation, Inc.—Abandonment Exemption—In Warren, Simpson, and Logan Counties, KY

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 9.66-mile line of railroad between milepost LF–118.34 near Memphis Junction, KY and milepost LF–128.0 near South Union, KY in Warren, Simpson, and Logan Counties, KY.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective September 21, 1988 (unless stayed pending reconsideration). Petitions to stay regarding matters that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by August 29, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by September 6, 1988 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

Applicant has filed an environmental report which addressed environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will serve the EA on all parties by August 22, 1988. Other interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 9, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–18961 Filed 8–19–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 10:00 a.m., Sunday, September 18, 1988.

Place: Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, Virginia.

Status: Open.

Matters to be Considered: New Advisory Board members' orientation.

Contact Person For More Information: Larry Solomon, Assistant Director, (202) 724–3106.

Raymond C. Brown,

Director.

[FR Doc. 88–19061 Filed 8–18–88; 11:59 am]

BILLING CODE 4410–36–M

Advisory Board Meeting

Time and Date: 8:00 a.m., Monday, September 19, 1988.

Place: Sheraton National Hotel, Columbia Pike and Washington Blvd., Arlington, VA.

Status: Open.

Matters To Be Considered: Site selection update, Congressional bills that impact NIC, FY 1988 and 1989 budget review, and technology transfer program with NASA.

Contact Person for More Information: Larry Solomon, Assistant Director, (202) 724–3106.

Raymond C. Brown,

Director.

[FR Doc. 88–19060 Filed 8–18–88; 11:59 am]

BILLING CODE 4410–36–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Ex Parte No. 274 (Sub-No. 8), *Exemption of Out-of-Service Rail Lines* (not printed), served March 8, 1988.

[2] *See Exemption of Rail Line Abandonments or Discontinuance—Offers of Financial Assistance*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552 of Title 5, United States Code,

1. Date: September 9, 1988

Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications for the U.S. Newspaper Program, submitted to the Office of Preservation Programs,for projects beginning after January 1, 1989.

2. Date: September 12–13, 1988

Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications for Preservation Projects, submitted to the Office of Preservation, for projects beginning after January 1, 1989.

3. Date: September 14, 1988

Time: 8:00 a.m. to 4:00 p.m.
Room: 315
Program: This meeting will review applications for Elementary and Secondary Teacher—Scholar, submitted to the Division of Education Programs, for projects beginning after August 31, 1989.

4. Date: September 15, 1988

Time: 8:00 a.m. to 4:00 p.m.
Room: 315
Program: This meeting will review applications for Elementary and Secondary Teacher—Scholar, submitted to the Division of Education Programs, for projects beginning after August 31, 1989.

5. Date: September 16, 1988

Time: 8:00 a.m. to 4:00 p.m.
Room: M–14.
Program: This meeting will review applications for Elementary and Secondary Teacher—Scholar, submitted to the Division of Education, for projects beginning after August 31, 1989.

6. Date: September 19, 1988

Time: 8:00 a.m. to 4:00 p.m.
Room: M–14.
Program: This meeting will review applications for Elementary and Secondary Teacher—Scholar, submitted to the Division of Education, for projects beginning after August 31, 1989.

Susan Metts,
Advisory Committee Management Officer.

[FR Doc. 88–18944 Filed 8–19–88; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Reliability Assurance; Meeting

The ACRS Subcommittee on Reliability Assurance will hold a meeting on September 16, 1988, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, September 16, 1988—8:00 a.m. Until the Conclusion of Business

The Subcommittee will continue its review of the Equipment Qualification-Risk Scoping Study with special emphasis on the peer review comments.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opoortunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) until August 26 and after August 29 (telephone 301/492–8109) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: August 16, 1988.

Morton W. Libarkin,
Executive Director for Project Review.

[FR Doc. 88–18966 Filed 8–19–88; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–440 and 50–441]

Cleveland Electric Illuminating Co.; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied a Petition under 10 CFR 2.206 filed by David Poch and Donald L. Schlemmer on behalf of Energy Probe and Western Reserve Alliance (Petitioners) on January 9, 1987, and amended on April 1, 1987. The Petitioners had requested an immediate shutdown and suspension of the operating license for the Perry plant, the establishment of an independent design review to address alleged pipe clamp deficiencies, assembly of a special independent inspection team to review issues raised in the Petition including alleged quality assurance/quality control (QA/QC) deficiencies at the General Electric facility in San Jose, California, removal of affected parts from the Perry facility, and withdrawal of an earlier Director's Decision because

of alleged NRC fraudulent behavior in connection with that Decision.

The relief requested by the Petitioners is denied. The reasons for this decision are more fully described in the "Director's Decision Under 10 CFR 2.206" (DD–88–13), which is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555 and in the local public document room for the Perry plant at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

A copy of the Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute final action of the Commission twenty-five (25) days after issuance unless the Commission, on its own motion, institutes review of the Decision within that time period.

Dated at Rockville, Maryland, this 14th day of August 1988.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III, IV, and V and Special Projects.

[FR Doc. 88–18967 Filed 8–19–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–312]

Sacramento Municipal Utility District et al. (Rancho Seco Nuclear Generating Station); Exemption

I

Section 50.71(e)(4) of 10 CFR Part 50 requires licensees of nuclear power reactors to revise the Updated Safety Analysis Report (USAR) at least once a year. The USAR revisions shall reflect all changes up to a maximum of 6 months prior to the date of filing the revision.

By letter dated April 22, 1988, the Sacramento Municipal Utility District (SMUD), owner and operator of the Rancho Seco Nuclear Generating Station, requested a six-month extension for submitting the next revision to the USAR. The next revision, Amendment 6, was due no later than July 22, 1988. The SMUD request would extend the due date to no later than January 22, 1989. Subsequent revisions would be due on an annual schedule beginning on January 22, 1989.

II

The request for extension of the submittal date for the USAR revision is based on the timing of a major Rancho Seco systems modification outage which ended on March 30, 1988. Most of the systems modified during the outage are addressed in the USAR. From March 30, 1988 to approximately September 1988, the licensee will conduct tests on the modified systems. In an effort to include all the plant modifications in the next USAR revision, the licensee requested a six-month extension of the submittal due date.

The Rancho Seco Nuclear Generating Station had been shutdown from December 26, 1985 to March 30, 1988. During this period extensive plant modifications were completed. The plant restarted and a scheduled six-month power ascension program began on March 30, 1988. The plant modifications will be tested under operating conditions during the power ascension period. Problems which may surface during the test phase may result in additional plant modifications. A revised USAR submitted on the date requested by the licensee should contain system descriptions and evaluations in final form.

Under the existing USAR revision schedule, a licensee submittal was required no later than July 22, 1988. Plant modifications, in place six months prior to the due date, are required to be included in the submittal. As a result, a revised USAR submittal on July 22, 1988, would have included a plant description and safety evaluation which were current through January 22, 1988. The first three months of 1988 were a period of rapid change at Rancho Seco and a USAR version current through January 1988 would describe transient system status at the plant. Plant modifications completed during the shutdown are evaluated and described in detail in NUREG–1286, the Rancho Seco Restart Safety Evaluation Report. A USAR, current through January 1988, would not be useful as a document to describe plant systems nor as a comprehensive safety evaluation of plant changes.

Based on the timing of the Rancho Seco plant modifications outage, the staff finds that there is good cause for the licensee's request for extension of the next USAR revision. A revised USAR submitted on January 22, 1989 will address plant changes through July 1988 and should include the final versions of all recent modifications. The staff finds that the requested extension is acceptable.

For the reasons, the staff finds that the licensee has shown good cause for the requested extension for submittal of Amendment 6 to the USAR. Therefore, the requested extension to January 22, 1989 is acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present to justify the exemption. The referenced special circumstances pertain to exemptions to regulations which do not alter the underlying purpose of the regulations. Extending the due date for the next USAR update, under the circumstances described, does not alter the underlying purpose of the requirement to maintain the USAR current.

Accordingly, the Commission hereby grants an exemption as described in section II above from § 50.71(e)(4) of 10 CFR Part 50 to extend the date for submittal of the next USAR revision to January 22, 1989.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (53 FR 23322).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 4th day of August, 1988.

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88–18968 Filed 8–19–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company, et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 65 to Facility Operating License No. NPF–10 and Amendment No. 54 to Facility Operating License No. NPF–15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear

Generating Station, Units 2 and 3, located in San Diego County, California.

The amendments were effective as of the date of issuance.

These amendments revise Technical Specification Section 3.1.3.4, "CEA Drop Time" in response to an appliction for amendments designated as PCN-263.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on July 8, 1988 (53 FR 25711). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined that an environmental impact statement will not be prepared and that issuance of the amendments will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendments dated June 14, 1988 and supplemental letters dated July 13 and July 25, 1988, (2) Amendment No. 65 to License No. NPF-10 and Amendment No. 54 License No. NPF-15, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 10th day of August 1988.

For the Nuclear Regulatory Commission.

D.E. Hichman,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-18969 Filed 8-19-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26000; File No. SR-DTC-88-16]

Self Regulatory Organizations; Depository Trust Company; Notice of Filing and Accelerated Temporary Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("the Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1988, the Depository Trust Company ("DTC") filed a proposed rule change concerning segregation of fully-paid-for customer securities. The Commission is publishing this notice to solicit comment on the rule change and to grant temporary approval for a 60 day pilot program.

The proposal would authorize DTC to establish a new method for participants, particularly broker-dealer participants, to segregate fully-paid-for customer securities against unintended delivery by creating a "memo" position within a participant's free account. This "memo" position allows participant's to protect from unintended delivery a designated quantity of customer fully-paid for securities that are in the participant's free account or that may be received during the daily processing cycle. Securities would remain in the memo position until the participant provides DTC with new instructions to remove them from the memo position or until the participant reduces the position by executing eligible transactions that are normally customer transactions. Withdrawals-by-transfer, certificate-on-demand withdrawals, and free deliver orders that are not identified as stock loan or stock loan returns would be considered eligible transactions which would be used to reduce the securities in both the memo position and the free account position.[1]

DTC developed the memo segregation service in response to participant and industry organization requests to design a system to assist broker-dealers to comply with commission Rule 15c3-3 by providing a better mechanism for the protection of customer fully-paid-for securities.[2] This service is in addition to segregated accounts and conduit accounts currently available to protect customer fully-paid-for securities.[3]

DTC believes that the proposed rule change is consistent with the requirements of section 17A(b)(3)(F) of the Act in that it is designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency. DTC has requested that this rule change be approved on a temporary basis as a pilot program. DTC believes that the immediate implementation of this service will assist broker-dealers in complying with Rule 15c3-3 and improve broker-dealers' ability to safeguard customer securities within DTC's custody or control.

The Commmission preliminarily believes that the proposal is consistent with the Act, and in particular, section 17A. The Commission agrees with DTC that the memo segregation service, as proposed, potentially could improve broker-dealers' ability to safeguard customer securities and thus comply with Rule 15c3-3. Because of the potential enhanced ability of broker-dealers to safeguard customer securities at DTC afforded by this service, the Commission believes there is good cause for approving the proposal on a temporary basis prior to the thirtieth day after publication in the **Federal Register**. This will permit DTC and pilot users to assess the safety and efficiency of this new program.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**.[4] Persons desiring to make written comments should refer to File No. SR-DTC-88-16 and file six copies of their comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

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[1] DTC presumes that these activities are customer transactions and, therefore, once satisfied from a participant's free account position, are no longer anticipated customer securities that need protection.

[2] Rule 15c3-3 requires, among other things, that a broker-dealer obtain and thereafter maintain possession or control of all fully-paid-for or excess margin securities held for the accounts of customers. See 17 CFR 240.15c3-3. Broker-dealers may deposit these securities with registered clearing agencies, such as DTC, for safekeeping.

[3] Currently, to protect customer fully-paid-for securities, broker-dealers must segregate customer fully-paid-for securities in a segregated account which prevents these securities from being used for any transactions while they are held in the segregated account. Securities in a segregated account may not be delivered out until those securities are transferred to the participant's free account. A participant also may open a conduit account to receive certain securities (e.g., stock-loan deliveries). A participant issues instructions to DTC to deliver securities out of this account rather than the participant's free account. Participants usually use a conduit account to make a delivery from securities it expects to receive that day.

[4] The Commission encourages interested persons to submit written views concerning the proposed rule change, notwithstanding the Commission's approval of the proposed rule change today. The Commission will consider any comments it receives when it considers approving memo segregation as a permanent service.

Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-88-16.

It Is Therefore Ordered, pursuant to section 19(b) of the Act, that the proposed rule change (SR-DTC-88-16) be, and hereby is, approved on a temporary basis through October 14, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 16, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-18922 Filed 8-19-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25999; File No. SR-NASD-88-18]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Removal of Fine Ceilings

The National Association of Securities Dealers, Inc. ("NASD") submitted on May 23, 1988, and amended on June 30, 1988, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder. The proposed rule change amends Article V, section 1 of the NASD's Rules of Fair Practice to remove the $15,000 limitation of fines could be imposed in disciplinary proceedings against members and their associated persons for each violation of the Rules of Fair Practice.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 25883, July 5, 1988) and by publication in the **Federal Register** (53 FR 26699, July 14, 1988). One letter of comment was received, which supports approval of the proposed rule change.[1]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and is hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Assistant Secretary.

Dated: August 16, 1988.

[FR Doc. 88-18920 Filed 8-19-88; 8:45 am]

BILLING CODE 8010-01-M

[1] Letter from James B.G. Hearty, Chairman, Municipal Securities Rulemaking Board, to Jonathan G. Katz, Secretary, SEC, July 25, 1988.

(Release No. 34-26002; File No. SR-NASD-88-25)

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Concerning Amendments to Procedures for the Imposition of Remedial Business Limitations for Member Firms In or Approaching Financial or Operational Difficulty

On June 24, 1988, the National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder, to amend section 5(c) and 6 to clarify that District Surveillance Committee action taken pursuant to Article V, Part A, sections 5(c) constitutes final action of the NASD which is reviewable by the Securities and Exchange Commission in contrast to written decisions issued pursuant to section 5 (a) and (b) of Article V, Part A. Notice of the proposed rule change together with the terms of substance of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 25889, July 7, 1988) and by publication in the **Federal Register** (53 FR 26545, July 13, 1988). The Commission did not receive any comment letters with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and in particular the requirements of section 15A and the rules and regulation thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Assistant Secretary.

Dated: August 16, 1988.

[FR Doc. 88-18921 Filed 8-19-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26001; File No. SR-NYSE-88-21]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to Options Reallocations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 28, 1988, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Proposed rule change consists of new Rule 750A concerning option specialist reallocations. The proposed rule is based on recently-revised Exchange Rule 103A ("Revised Rule 103A")[1] and contains both procedures and criteria to be used in determining whether to reallocate options. These procedures and criteria are discussed in more detail in Item II.A. below.

II. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

[1] *See* Securities Exchange Act Release No. 25681, May 9, 1988 53 FR 17287 ("Rule 103A Filing")

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose*

Rule 750 incorporates by reference into the option rules several of the Dealings and Settlements rules, including the specialist reallocation provisions of Rule 103A. Upon the Commission's approval of the proposed rule changes in the Rule 103A Filing, Revised Rule 103A automatically became incorporated into the option rules. Because Revised Rule 103A has been drafted to apply by its terms only to NYSE equities, however, incorporating that rule in the form proposed into the options market is not appropriate.

Therefore, the Exchange is proposing that an options companion rule to Revised Rule 103A be adopted for a pilot period that runs concurrently with the pilot period of Revised Rule 103A. Proposed Rule 750A is substantially similar to Revised Rule 103A, but tailors it in a number of respects to the unique aspects of the Exchange's options market.

Proposed Rule 750A retains the procedural framework of Revised Rule 103A. The proposal requires the Market Performance Committee ("MPC") to initiate a Performance Improvement Act when an option specialist's performance falls below specified standards (except in highly unusual or extenuating circumstances). The conduct of the Performance Improvement Action is the same in Proposed Rule 750A as it is in Revised Rule 103A.

With respect to the performance standards by which the MPC will measure option specialist performance, the standards included as part of Revised Rule 103A are generally inapplicable to the options market. Accordingly, the standards included as part of Proposed Rule 750A are focused particularly on the options market and include both specific numerical standards based on the option specialist general information questionnaire ("Options SPEQ"), and the more general standard that the option specialist be in compliance with the rules and regulations governing options specialists. The Exchange believes that these standards will provide sufficient flexibility in administering the proposed rule while the Exchange gains further experience in measuring option specialist performance during the two-year pilot. The Exchange will consider the development of more specific option specialist performance standards during the pilot.

(b) Statutory Basis

The statutory basis for this proposed rule change is section 6(b)(5) of the Act, as amended which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to securities transactions, to facilitate securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-88-21 and should be submitted by September 12, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 16, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-19006 Filed 8-19-88; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26003; File No. SR-NYSE-88-17]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Concerning Bond Trading Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), on June 22, 1988, filed with the Securities and Exchange Commission ("Commission") a proposed rule change concerning bond trading procedures.

The proposal was published for comment in Securities Exchange Act Release No. 25897 (July 11, 1988), 53 FR 26916. No comments were received on the proposed rule change.

The proposal amends NYSE rules governing trading in debt securities. Specifically, Rule 61 defining recognized quotations in equities and bonds is amended to reduce the minimum size bond lot from 50 to 25 for all or none orders in cabinet bonds. Amendments to Rule 72 clarify that bonds dealt in by cabinet are governed by Rule 85, not Rule 72. Rule 79A clarifies the definition of transactions at wide variances which would require approval of a Floor Official; such transactions are those that occur two or more points away or 30 or more days from the last transaction. Rule 85, which governs trading in

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 U.S.C. 240.19b-4 (1987).

cabinet bonds and includes bonds traded via the Automated Bond System ("ABS"), is amended to delete all reference to month and week orders which no longer exist, and to provide the Exchange with the flexibility to designate types of orders for particular issues. Additionally, the proposed revisions eliminate confusing references to "free bonds," "free crowd" and "Bond Crowd," substituting the term "Bond Floor" instead. The revisions also delete specific references to floor clerks and quota cards, thereby providing for flexibility in the quote capture process. Finally, Rule 124 dealing with trading of odd-lot equity orders substitutes the word "stock" for the more ambiguous term "security."

The proposal also amends Rules 55, 191 and 251 to clarify the Exchange's practice with respect to trading foreign currency denominated bonds on the Exchange. Amendments to Rule 55 defining the units of trading for stocks and bonds would allow the Exchange to designate units of trading other than $1,000 for U.S. dollar and foreign currency denominated bonds. Rule 191, which currently specifies that foreign currency bond contracts shall be made and settled on the basis of U.S. currency equivalents set by the Exchange, is amended to allow the parties to agree on the currency for contract settlement in foreign currency denominated bonds. Rule 251 governing cash adjustment for coupons is deleted because such situations are adequately covered by other Exchange rules.

Finally, the proposed rule change provides a reinterpretation of Rule 85(e)(1) with respect to the crossing procedure on ABS. Currently, the rule provides that when a member files a bid or offer in the cabinets as agent and then receives an order in the same security on the opposite side, he can "cross" the orders without making any further bids or offers provided that the first bid or offer has been in the cabinets for a "reasonable" period of time and that the member announces his intention to cross before he does so. Although a "resonable period of time" is not defined, a floor practice of 15 minute had evolved and was programmed into ABS. Bids and offers on ABS are updated automatically, unlike bids and offers stored in physical cabinets that have to be updated manually. Therefore, for crosses effected on ABS, 15 minutes exposure is not "reasonable." The new interpretation of Rule 85(e)(1) establishes two minutes as a "reasonable" time in ABS.

The Exchange states that the purpose of the proposed rule change is to eliminate outdated bond rules, refine rules to address current bond trading procedures, and narrow the language of certain rules that do not apply to trading in bonds or in certain types of bonds.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[3] The Commission believes it is appropriate for the NYSE, in connection with its recent review of its bond rules, to revise those rules to reflect current bond trading procedures.

Specifically, the Commission believes it is appropriate for the NYSE to reduce the minimum size lot for all or none orders in cabinet bonds because these smaller orders now can be executed on the ABS. Also, the Commission believes it is logical for the NYSE to amend its rules to codify long-standing practice, such as by defining transactions at wide variations which require the approval of a Floor Official, and to eliminate references to types of orders which no longer exist, such as month and week orders. Additionally, the Commission believes it appropriate that the Exchange eliminate confusing terminology in the bond rules, substituting instead the single term "Bond Floor" where appropriate. Also, the Commission recognizes that, for the most part, the quote capture process is automated and so it is appropriate to delete references to individuals and cards.

The Commission also believes it appropriate that the Exchange clarify its rules dealing with foreign currency denominated bonds so as to permit the parties involved to agree on the currency for contract settlement in foreign currency bonds. Moreover, the Commission also recognizes that certain provisions, such as accounting for cash adjustments to reflect coupon interest paid after a trade but before settlement occurs, are already covered in existing NYSE Rules. Finally, the Commission agrees that, because quotes are updated automatically in ABS, a two minute exposure allows other members an adequate chance to trade at the bid and offered prices, and so is a "reasonable period of time" before which a member can cross orders.

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act. In particular, the Commission finds that the proposed rule change is consistent with Section 6 and the rules and regulations applicable to a national securities exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–88–17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: August 16, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88–19007 Filed 8–19–88; 8:45 am]

BILLING CODE 8010-01-M

[3] 15 U.S.C. 78f (1982).

[4] 17 CFR 200.30–3(a)(12) (1986).

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended Augsut 12, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45745

Date Filed: August 9, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 6, 1988.

Description:

Application of Sun Country Airlines, Inc., pursuant to section 401 of the Act and Subpart Q of the Regulations requests permanent authority to engage in foreign charter air transportation of persons, property and mail on a permissive basis: Between a point or points in the United States and a point or points in (a) Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; and (b) Greenland, Iceland, the Azores, Europe,

Africa, and Asia as far east as, and including, India.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-18979 Filed 8-19-88; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

[Docket No. 88-09; Notice No. 1]

Periodic Motor Vehicle Inspection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice to solicit public comment, and notice of public hearings.

SUMMARY: This notice is being issued to solicit public comments on a study to evaluate the effectiveness of State motor vehicle inspection (PMVI) programs. This action is in response to Congressional direction and NHTSA interest in addressing the effectiveness of State periodic motor vehicle inspection programs. The notice announces two public hearings and invites submission of written comments to the public docket on this subject.

DATES: The public hearings will be held on September 27 and October 5, 1988. All written comments should be received by October 27, 1988.

ADDRESSES: The September 27, 1988 hearing will be held in Room 2230 of the Nassif Building, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC. The October 5, 1988, hearing will be held in Conference Rooms A and B of the Lehigh Building, 555 Zang Street, Lakewood, Colorado. Each hearing will be scheduled from 9 a.m. to 12 noon and from 1:30 p.m. to 5 p.m. or until the final witness has been heard. Written comments should refer to the docket number and the number of this notice, and be submitted (preferably in ten copies) to: Docket Section, Room 5109, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address during docket hours. (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Joseph P. Grillo, or Sam Luebbert, Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Grillo, Room 5119, (202) 366-1770; Mr. Luebbert, Room 5119, (202) 366-2676.

SUPPLEMENTARY INFORMATION: The Conference Report on the Continuing Resolution for fiscal year 1988 (Pub. L. 100-202) directs that NHTSA conduct a comprehensive evaluation of the effectiveness of State motor vehicle safety inspection programs in (1) reducing highway accidents that result in injuries and deaths, and (2) limiting the number of defective or unsafe motor vehicles on the highways. The conferees expect NHTSA to solicit, evaluate and document the views of States, user groups, and other highway safety organizations.

Additionally, NHTSA was to submit a plan describing the study methodology and timetable to appropriate Congressional committees. The plan was submitted in April 1988. The plan provides for a review of the literature; analysis of crash data; assessment of current PMVI programs; and the publication of this notice, including public hearings, in order to solicit the widest range of information from all possible sources. Copies of the plan and a listing of the literature under review for the study are available upon request. Contact Mr. Joseph P. Grillo at the above address and telephone number.

Comments are solicited relative to the PMVI issues that follow in this notice, as well as other issues that may be pertinent to the PMVI study.

Following the public hearings and closing of the docket under this notice, NHTSA will prepare a draft study report. NHTSA then intends to issue a notice requesting comments on this draft study report. The final study report is scheduled for submission to Congress in March 1989.

Background

All motor vehicles deteriorate with time due to normal wear and tear, abuse, improper maintenance or other factors. With the deterioration of critical safety components such as brakes, steering and tires, the chances of vehicles becoming involved in a crash increase. This observation is supported by an in-depth study which was conducted by the Institute for Research in Public Safety, Indiana University to determine the relationship between vehicle mechanical failures and vehicle crashes. The report, published in 1973, found that 4.5 to 12.6 percent of crashes investigated were caused by or were contributed to by mechanical failures. Thus, the purpose of a periodic motor vehicle inspection (PMVI) program is to ameliorate deterioration by regularly inspecting vehicles for failures, detecting these failures and requiring owners to correct them.

As of December 31, 1966, three months after the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966 were enacted, 21 States and the District of Columbia had inspection laws requiring periodic inspection of motor vehicles. In June 1967, under the authority of the Highway Safety Act of 1966, the Department issued, among other standards, the Periodic Motor Vehicle Inspection Highway Safety Program Standard [1] which required that all registered vehicles be inspected at least once a year in accordance with criteria issued or endorsed by NHTSA. The standard also included provisions covering inspector training, facilities, equipment and evaluation. Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, on August 29, 1973, NHTSA issued Vehicle in Use Inspection Standards covering brakes, tires and wheels, and steering and suspension (39 FR 23949, now codified on 49 CFR Part 570). These standards are incorporated in the PMVI Highway Safety Program Standard in 23 CFR 1204.4. Highway Safety Program Standard No. 1, which provide that States should have inspection procedures that equal or exceed criteria issued or endorsed by NHTSA.

To further address concerns about safety of vehicles in use, in 1972 Congress enacted Title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 *et seq.*). This Title provided for demonstration projects designed, established and operated to conduct periodic safety and emission inspections and to provide specific technical diagnosis of each vehicle inspected, in order to facilitate correction of any component failing inspection. The demonstration showed that diagnostic motor vehicle inspection benefited consumers by providing them information on the condition of vehicles which, if used properly, could result in greater safety, lower pollution, improved gas mileage, and lower overall repair and maintenance costs.

[1] Until 1976, the agency's Highway Safety Program was principally directed towards achieivng State and local compliance with the 18 Highway Safety Program Standards, which were considered "mandatory" requirements for States to implement, with financial sanctions available against the States for noncompliance. Under the Highway Safety Act of 1976, Congress provided for a more flexible implementation of the program so that the Secretary would not have to require State compliance with every uniform standard or with each element of every uniform standard. As a result, the PMVI and other standards have over the years become more like guidelines for use by the States. Management of the program has shifted from enforcing standards to one of problem identification, countermeasure development and evaluation, using the standards as a framework for the State programs. This approach was formalized in section 206(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, and the 18 standards were officially renamed "guidelines."

As of June 30, 1975, 32 States and the District of Columbia had enacted PMVI laws. At the same time, twelve non-PMVI States had conducted trial substitute motor vehicle inspection programs to determine the effectiveness of alternative inspection programs compared to PMVI. Eleven States repealed their PMVI laws from 1976 to 1982, leaving a total of 21 States and the District of Columbia with PMVI laws as of March 31, 1988.

NHTSA is one of three Federal agencies concerned with the condition of the nation's motor vehicle fleet. The Federal Highway Administration (FHWA) administers Federal rules and regulations covering inspection, maintenance and repair of commercial motor vehicles as one part of its safety program affecting the motor carrier industry and the public. It administers the Motor Carrier Safety Assistance Program with the States to increase the level of enforcement activity for commercial motor vehicles, and to increase the likelihood that safety problems will be detected and corrected. FHWA has also proposed to expand existing Federal motor carrier inspection requirements to include mandatory periodic inspection of commercial motor vehicles at least once a year. The Environmental Protection Agency (EPA), under the authority of the Clean Air Act, as amended in 1970 and 1977, requires States and the District of Columbia to meet applicable Federal ambient air quality standards. For those States designated as having ozone or carbon monoxide nonattainment air quality areas, compliance in those areas involves the States' instituting motor vehicle emissions inspection programs. Thirty-three States and the District of Columbia have instituted such programs as of December 31, 1987. EPA and NHTSA recently entered into a Memorandum of Understanding whereby the two Federal agencies formally agreed to coordinate in matters of mutual interest. Accordingly, EPA, together with FHWA, have been and will be coordinated with throughout the completion of the final study report.

Under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Congress directed the Secretary of transportation to determine those programs most effective in reducing accidents, injuries and fatalities. This action resulted from a concern that the funds provided to the States under the State and Community Highway Safety Program, which is administered by the National Highway Traffic Safety Administration and the Federal Highway Administration, were not being used for programs with the highest payoff in terms of reducing crashes, deaths and injuries. It was also believed that many continuing programs, such as PMVI, were more properly the responsibility of the States, and Federal funding should be used for start-up or "seed money" for new initiatives.

In a final rule issued on April 1, 1982 (47 FR 15116), which considered the extensive input from the highway safety community, six National Priority Program Areas were identified, including one administered by the Federal Highway Administration (Safety Construction and Operational Improvements), and five administered by NHTSA (Alcohol Countermeasures, Police Traffic Services, Occupant Protection, Traffic Records, and Emergency Medical Services). These program areas continued to be eligible for section 402 dollars under expedited funding procedures established in the final rule. Although PMVI was not included as a priority area, the rule provided that it (and other non-emphasis areas) could receive funding in accordance with non-emphasis area funding procedures established in the rule, and now codified in 23 CFR 1205.5. As directed by Congress in section 206(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, NHTSA and FHWA conducted another rulemaking process to determine the programs currently most effective in reducing accidents, injuries and fatalities.

A final rule, issued April 1 and published April 6, 1988 (53 FR 11256), amended the April 1, 1982 rule, changing Alcohol Countermeasures to "Alcohol and Other Drug Countermeasures." A sixth priority program area was added to those administered by NHTSA, titled "Motorcycle Safety." The priority program area administered by FHWA, Safety Construction and Operational Improvements, was retitled "Roadway Safety."

NHTSA is interested in soliciting views, comments, reports and data on the relationship of mechanical problems to crash causation and on the technical, administrative, evaluative and public policy factors connected with PMVI programs. We are interested in hearing from State and local, public and private agencies, user groups and other highway safety organizations, affected industries and consumer organizations, the automobile insurance industry, and experts in such fields as highway safety research, vehicle safety performance, inspection equipment and techniques, PMVI program administration, emissions inspection and enforcement. To assist the commenters, NHTSA has prepared a list of issues we believe should be addressed. Commenters are free to address all or any number of the issues listed, or to raise additional issues not included on this list.

This notice applies only to those vehicles with a gross vehicle weight of less than 10,000 lbs. FHWA, under the Motor Carrier Safety Act of 1984, is in the process of issuing a rule for periodic motor vehicle inspection for commercial motor vehicles, which will address the status of truck inspections.

PMVI Issues

1. Information is needed on the cost-effectiveness, or benefits and costs of vehicle inspection. Comments are requested on this issue directly, or as a part of addressing the other listed issues. Discussion should include inspection costs both to individuals and to the State. Studies and evaluation reports are especially requested to support the cost-effectiveness or benefit/cost comments. Benefit discussions should include estimates of safety benefits, both to the vehicle owner and other drivers, as well as other benefits from the program.

2. Of all vehicles which make up the national fleet (numbering approximately 182 million), roughly 38 percent are subject to State mandatory periodic motor vehicle inspection programs. The Institute for Research in Public Safety, Indiana University conducted an accident investigation study for NHTSA in the early 1970s. It found at that time that mechanical failures cause or contribute to 4.5–12.6 percent of all motor vehicle crashes.

Are any additional and more current data available regarding the issue of involvement of vehicle mechanical failures in crashes?

As the number of motor vehicles and associated mechanical failures increase, and the number of PMVI States remain the same, is this serious enough to warrant renewed emphasis establishing and improving motor vehicle inspection programs? If yes, who should take the lead role and what should this role be?

3. Currently, 21 States and the District of Columbia have periodic motor vehicle inspection programs. Several other States have varying requirements, such as random or spot inspection or inspection at time of transfer of ownership.

Comments are requested as to whether the movement of vehicles between States is a sufficient reason for all States to have periodic motor vehicle inspection laws. If so, how should this result be encouraged, e.g., Federal

involvement, national association efforts, or some other means?

4. An issue that has been raised by researchers and others involves the accurate detection of faulty vehicle components before they cause or contribute to a possible crash. Very limited information is available on this issue. Periodic inspection programs may not eliminate sudden mechanical failures, and may pass rather than fail a number of marginal components with the potential to contribute to crashes.

Comments are requested regarding any reports or information available which can provide further understanding and insights about: (1) Sudden mechanical failures that occur between inspections, (2) mechanical problems of components that have the potential of contributing to crashes that may or may not be covered in State inspection criteria, and (3) mechanical failures of components that have been found and corrected, or mechanical failures of components that have not been found although they were required to be inspected under the State inspection criteria.

5. Some past studies have been conducted to examine the effectiveness of inspections in improving the safety related mechanical condition of vehicles and reducing crashes, indicating that the mechanical condition of vehicles is better in PMVI States than in non-PMVI States; however, this is not true for all safety components. There is a lack of data on inspection, and the crash reduction studies do not provide enough information and insights to measure the effectiveness of inspections in preventing crashes.

Comments are requested concerning current studies or information available which can provide understanding about the effectiveness of inspection programs in detecting mechanical failures, in improving the safety related mechanical condition of vehicles or in reducing crashes. Are evaluations available, with data and information in sufficient detail to provide for comparisons between various types of inspection programs? Do any of these studies include a cost-effectiveness or benefit/cost analysis?

Is it feasible to inspect vehicles only after a certain number of miles and/or age? If so, after how many miles and at what age? If so, what are the estimated cost savings? What effect would this have on safe vehicle condition and crash reduction?

Related to the above, could there be alternative inspection schedules, depending on miles and/or age? Could there be differing levels of inspection, including spot or random? What would be the effectiveness and costs of such various levels and schedules of inspection?

6. Emissions inspection is required in nonattainment air quality areas in many States, and safety inspections are required in a number of these same States. As part of the emissions inspection program. States use either government operated facilities, a private garage system or a contractor operated system.

Some have argued that it would be more cost effective introducing a safety inspection program in a non-PMVI State by adding it to the State's emissions inspection program, since vehicles would already be required to stop at the inspection facility for emissions inspection.

Comments are requested regarding information on the cost and benefits of combining emissions and safety inspection in a government operated, private garage or a contractor system. What are the advantages and disadvantages of combining safety and emissions inspection in each type of system? Should the non-PMVI States with emissions inspection programs be encouraged to adopt safety inspection? If so, how?

7. Vehicle inspection standards and procedures can be rigorous, exacting and costly. For example, Federal inspection guidelines for testing service brake performance include use of either roller-type, drive on platform, or road tests. The Federal guideline for examining disc and drum condition requires removal of one front and one rear wheel.

Describe any guidelines and procedures that would be practical and not costly for inspecting motor vehicles, including the braking system. Which type of inspection system, such as private garage, government operated, contractor or a combination of these would lend itself best to a cost-effective inspection system?

8. Random or spot inspection programs have been used in several States as an alternative for periodic motor vehicle inspection programs. This approach assumes that these programs will encourage motorists to maintain their vehicles because of the likelihood of having their vehicles inspected.

Comments are requested on the effectiveness and costs of random or spot inspection programs in comparison to those of PMVI programs in maintaining the safe condition of vehicles. Comments are requested comparing the cost-effectiveness of random or spot inspection programs to those of no inspection programs. Should random or spot inspection be used in lieu of or to supplement a PMVI program?

9. There have been significant technological vehicle improvements that have an impact on safety. Comments are requested on how these improvements might affect the frequency of PMVI, as well as the equipment and procedures needed for inspection. Some of these technological improvements are:

- Newly designed headlights.
- Anti-lock brakes.
- Airbags and automatic belts.
- Four wheel steering.
- Traction control systems.
- Active suspension systems.
- Computerized safety checks—brakes, lights, etc.
- On-board diagnostics—regarding on-board diagnostics, some vehicles have sophisticated on-board emissions control monitoring, electronic computer controlled subsystems, and various "safety" subsystems monitoring. Comments are requested regarding how this technology may affect the conduct of, or be integrated with, PMVI programs.

10. Under current warranty programs, some extend to 7 years or 70,000 miles, others have shorter periods and lower mileages, as well as varying vehicle components covered. Comments are requested on the feasibility of providing for PMVI as a part of the warranty program. If feasible, comments are requested on the criteria and procedures that might be used.

Public Hearings

Public hearings will be held on September 27 and October 5, 1988. The September 27, 1988 hearing will be held in Room 2230 of the Nassif Building; U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC. The October 5, 1988 hearing will be held in Conference Rooms A and B of the Lehigh Building, 555 Zang Street, Lakewood, Colorado. Each hearing will be scheduled from 9 a.m. to 12 noon and from 1:30 p.m. to 5 p.m., or until the final witness has been heard. The agency invites interested members of the public to participate in these hearings and to comment on all issues raised by this notice. Because of the parallel involvement with PMVI programs, EPA officials have been invited to participate in the public hearings. Commenters are encouraged to address issues on periodic emissions inspections, as well as safety inspections.

Persons wishing to make an oral presentation at the public hearing should contact Mr. Joseph P. Grillo (whose address and telephone number are provided near the beginning of this

notice) no later than seven days before the hearing. Oral statements should be limited to 5 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may be requested by agency representatives conducting these hearings. As time permits, the formal statements may be followed by an open discussion, and persons who have not requested time but would like to make a statement, may be afforded an opportunity to do so at the end of each day's schedule.

Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Grillo, no later than two days before each hearing begins. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of each public hearing will be prepared and also placed in the public docket as soon as possible after the hearing. A schedule of the persons making oral presentations at each hearing will be available at the designated meeting area at the beginning of each public hearing.

Written Comments

Interested persons are invited to submit comments on this notice. It is requested but not required that 10 copies be submitted.

Written comments to the public docket should be received by October 27, 1988. Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written comments and statements will be placed in Docket 88-09; Notice 1 of the Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued on August 17, 1988.

George L. Reagle,

Associate Administrator, Traffic Safety Programs.

[FR Doc. 88-18978 Filed 8-17-88; 4:35 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 16, 1988.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: 8806.
Type of Review: New collection.
Title: Computation of communication taxes.
Description: Form 8806 is used to compute the excise tax on local telephone service, toll telephone service, and teletypewriter exchange service. This form enables IRS to monitor the excise tax liability on these services. (Internal Revenue Code section 4251).
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 3,000.
Estimated Burden Hours Per Response: 10 minutes.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 1,950 hours.

OMB Number: New.
Form Number: 8807.
Type of Review: New collection.
Title: Computation of certain manufacturers and retailers excise taxes.
Description: Form 8807 is used to compute the excise tax on fishing equipment, bows and arrows, pistols and revolvers, other firearms, shells and cartridges, tires, and trucks and trailer chassis and bodies and tractors. This form enables IRS to monitor the excise tax liability on these articles. (Internal Revenue Code sections 4161, 4181, 4051, and 4071).
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 7,250.
Estimated Burden Hours Per Response: 37 minutes.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 18,000 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 88-18918 Filed 8-19-88; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 88-50]

Revocation of Commercial Gauger Approval of Captain G. McKay & Sons Marine, Inc., of Galveston, TX

AGENCY: U.S. Customs Service, Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the commercial gauger approval of Captain G. McKay & Sons Marine, Inc., of Galveston, Texas, has been revoked at McKay's request. The decision was effective on August 15, 1988.

Dated: August 16, 1988.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 88-18909 Filed 8-19-88; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 88-49]

Revocation of Commercial Gauger Approval of Marintech, Inc., of LaMarque, TX

AGENCY: U.S. Customs Service, Treasury.

ACTION: General rule.

SUMMARY: Notice is hereby given that pursuant to § 151.13(k) of the Customs

Regulations, as amended (19 CFR 151.13), the commercial gauger approval of Marintech, Inc., of LaMarque, Texas, has been revoked with prejudice. The decision was effective on August 15, 1988.

Dated: August 16, 1988.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 88-18908 Filed 8-19-88; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 88-51]

Revocation of Commercial Gauger Approval of PKB Scania (USA), Inc., of New Orleans, LA

AGENCY: U.S. Customs Service, Treasury.

ACTION: General rule.

SUMMARY: Notice is hereby given that pursuant to § 151.13(k) of the Customs Regulations, as amended (19 CFR 151.13), the commercial gauger approval of PKB Scania (USA), Inc., of New Orleans, Louisiana, has been revoked with prejudice. The decision was effective on August 15, 1988.

Dated: August 16, 1988.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 88-18910 Filed 8-19-88; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 88-48]

Revocation of Commercial Gauger Approval of Transcan Marine Consultants and Surveyors, Inc., of Houston, TX

AGENCY: U.S. Customs Service, Treasury.

ACTION: General rule.

SUMMARY: Notice is hereby given that pursuant to § 151.13(k) of the Customs Regulations, as amended (19 CFR 151.13), the commercial gauger approval of Transcan Marine Consultants and Surveyors, Inc., of Houston, Texas, has been revoked with prejudice. The decision was effective on August 15, 1988.

Dated: August 16, 1988.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 88-18907 Filed 8-19-88; 8:45 am]

BILLING CODE 4820-02-M

United States Mint

Determination as to U.S. Mint Procurement Relating to Coin Production

As required by section 3 of Pub. L. 100-274, notice is hereby given that on August 12, 1988, I determined it to be inconsistent with the public interest to decline to award a contract to ArrowHead Metals, Inc., of Canada, for the fabrication of nickel coinage strip for the U.S. Mint. Failure to do so could have been considered a violation of the Agreement on Government Procurement of the General Agreement on Tariffs and Trade, of which the United States is a signatory. Additionally, it would not be in the national interest to reduce competition in an area in which competition has proven very beneficial.

M. Peter McPherson,

Deputy Secretary of the Treasury.

[FR Doc. 88-19017 Filed 8-19-88; 8:45 am]

BILLING CODE 4810-37-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393), July 2, 1985), I hereby determine that the objects to be included in the exhibit "German Expressionism 1915-1925: The Second Generation" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, beginning on or about October 2, 1988 to on or about December 31, 1988, and at the Modern Art Museum of Fort Worth, Texas, beginning on or about February 12, 1989 to April 9, 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Date: August 18, 1988.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 88-19124 Filed 8-19-88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie Nierenberg of the Office of the General Counsel, USIA. The telephone number is (202) 485-8827, and the address is Room 700, U.S. Information Agency, 301-4th Street, SW., Washington, DC 20547.

VETERANS ADMINISTRATION

Advisory Committee on Native American Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that the fifth meeting of the Advisory Committee on Native American Veterans will be held on September 20 through 22, 1988, at the Northern Lights Inn, 598 West Northern Lights Boulevard, Anchorage, Alaska 99503-9990.

The purpose of the meeting is to address issues related to the accessibility and delivery of health care services and benefits to Native Alaskan veterans and to review the status of recommendations contained in the report of the Committee submitted on February 1, 1988. All meetings will begin at 8:30 a.m. and continue until 4:30 p.m. All sessions will be open to the public up to the seating capacity of the room.

To assure adequate accommodations those who plan to attend should contact Mr. John R. Fulton, MSW, Committee Manager, Advisory Committee on Native American Veterans, at (202) 233-2614.

Dated: August 11, 1988.

By direction of the Administrator

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 88-18915 Filed 8-19-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 162
Monday, August 22, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1406]

TIME AND DATE: 10 a.m. (CDT), Wednesday, August 24, 1988.

PLACE: Legislative Plaza, Senate Hearing Rooms 12–14, Capitol Boulevard, Nashville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on July 20, 1988.

Action Items

Old Business

1. Final Rate Review.

New Business

A—Budget and Financing

A1. Fiscal Year 1989 Capital Budget Financed from Power Proceeds and Borrowings, Comprising Expenditures for Ongoing and New Projects During the Fiscal Year and the Estimated Total Project Cost for Those Projects.

A2. Fiscal Year 1988 Operating Budget Financed from Power Revenues.

[1] A3. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1988—Construction of a Double-Circuit, 161 kV Transmission Line from Collinsville to Leesburg, Alabama.

[1] A4. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1988—Safety Improvements on Overhead Cranes—Sequoyah Nuclear Plant.

[1] A5. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1988—Final Safety Analysis Report Verification.

[1] A6. Modification of the Capital Budget Financed from Power Proceeds and Borrowings for Fiscal Year 1988—Develop a Qualified Component List (Q-List)—Sequoyah Nuclear Plant.

A7. Proposed Increase in Borrowing Commitment with Seven States Energy Corporation and the Federal Financing Bank Under the Nuclear Fuel Leasing Arrangements.

B—Purchase Awards

B1. Negotiation GB–06284A—Electrostatic Fly Ash Collectors and Auxiliary Equipment for Colbert Fossil Plant.

C—Power Items

C1. Contract with Individual Power Distributors for Repair of Major Electrical Equipment at Power Service Shops.

D—Personnel Items

[1] D1—Supplement to Consulting Contract TV–74236A with Bishop, Cook, Purcell and Reynolds to Provide Advice and Consultation with Respect to Legal Matters.

E—Real Property Transactions

[1] E1. Option to NASA for Yellow Creek Site.

E2. Filing of Condemnation Cases.

E3. Resolution for the Waste Bar Reservoir Land Management Plan.

E4. Proposed Land Exchange Affecting Fontana Reservoir Land Transferred by TVA to the U.S. Department of Agriculture, Forest Service, Under Contract TV–1721A.

E5. Grant of a Permanent Easement for an Access Road Affecting Approximately 0.13 Acres of Douglas Reservoir Land Located in Jefferson County, Tennessee.

E6. Proposed Sale of Three Noncommercial, Nonexclusive Permanent Recreation Easements Affecting 0.30 Acres of Tellico Reserve Shoreline in Monroe County, Tennessee.

F—Unclassified

[1] F1. Changes in Composition of List of Agency Officials Authorized to Certify Vouchers.

F2. Proposed Modification in Procurement Code to Allow for Increased Competitive Negotiation.

F3. Supplement to Memorandum of Agreement No. TV–64520A Between TVA and U.S. Environmental Protection Agency to Finalize External Peer Review of the National Precipitation Assessment Program 1985 Emissions Inventory.

F4. Supplement to Contract No. TV–75239A with U.S. Department of Army, Lexington-Blue Grass Army Depot, for Continuing the Production of a Digital Data Base.

F5. Supplement to Contract No. TV–67038A with U.S. Department of Agriculture, Forest Service, to Continue the Collection of Data From its Whitetop Mountain Monitoring Site.

F6. Agreement Between TVA and U.S. Department of the Army, Corps of Engineers, Memphis District, for Relocation and Report Preparation on Endangered Mussel Species in the St. Francis River Basin.

F7. Revision to TVA Code Relating to Employee Recognition.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245–0101.

Dated: August 17, 1988.

William L. Osteen, Jr.,

Associate General Counsel and Assistant Secretary.

[FR Doc. 18–19059 Filed 8–18–88 11:59 am]

BILLING CODE 8120–01–M

[1] Items approved by individual Board members. This would give formal ratification to the Board's action.

Corrections

Federal Register
Vol. 53, No. 162
Monday, August 22, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1405 and 1421

Loans, Purchases and Other Operations; Grains and Similarly Handled Commodities

Correction

In proposed rule document 88-18160 beginning on page 30068 in the issue of Wednesday, August 10, 1988, on page 30071, in the second column, in the file line at the end of the document, "FR Doc. 88-16160" should read "FR Doc. 88-1816".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-24-NG]

Western Gas Marketing U.S.A. Ltd.; Order Granting Blanket Authorization To Import and Export Natural Gas

Correction

In notice document 88-18399 appearing on page 30711 in the issue of Monday, August 15, 1988, the Docket Number in the heading should read as it appears above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3100, 3110, 3120, 3160, and 3200

[AA-620-88-4111-01-24-10, Circular No. 2608]

Minerals Management; General Oil and Gas Leasing; Noncompetitive Leases; Competitive Leases; Oil and Gas Leasing—National Petroleum Reserve—Alaska; Onshore Oil and Gas Operations; Onshore Oil and Gas Unit Agreements—Unproven Areas; Geothermal Resources Leasing; General: Geothermal Resources Unit Agreements—Unproven Areas

Correction

In rule document 88-13680 beginning on page 22814 in the issue of Friday, June 17, 1988, make the following corrections:

PART 3000—[CORRECTED]

1. On page 22835, in the second column, in amendatory instruction 2, in the first line, "2000.0-5" should read "3000.0-5".

PART 3100—[CORRECTED]

2. On the same page, in the third column, in amendatory instruction 5, in the seventh line, "(b)92](vi)" should read "(b)(2)(vi)".

§ 3100.0-3 [Corrected]

3. On page 22836, in the first column, in § 3100.0-3(a)(2)(x), in the third line, "Executive" was misspelled.

4. On the same page, in the same column, in amendatory instruction 6, in the last line "U.S.C. 6506" should read "U.S.C. 6508".

§ 3101.1-4 [Corrected]

5. On the same page, in the third column, in § 3101.1-4, in the sixth line, "require" should read "required"; and in the next to last line, "a least a" should read "at least a".

§ 3103.2-1 [Corrected]

6. On page 22837, in the third column, in § 3103.2-1(a), in the eighth line, "years" should read "year's".

§ 3104.3 [Corrected]

7. On page 22839, in the first column, in § 3104.3(a), in the first line, after "lessees" insert a comma; and in the next to last line, "covering" was misspelled.

§ 3107.2-3 [Corrected]

8. On page 22840, in the first column, in § 3107.2-3, in the last line, "to so. * * *" should read "to do so. * * *".

PART 3110—[CORRECTED]

9. On page 22840, in the third column, in the third line from the bottom, in the "Authority", "supplemental" should read "supplemented".

§ 3110.1 [Corrected]

10. On page 22841, in the first column, in § 3110.1(b), in the 11th line, "§ 3120.23-1" should read "§ 3120.3-1".

§ 3110.3-1 [Corrected]

11. On the same page, in the second column, in § 3110.3-1, in the second line, "days" should read "years".

§ 3110.4 [Corrected]

12. On page 22842, in the first column, in § 3110.4(a), in the second line, "§ 3109.9" should read "§ 3110.9"; and in the fifth line, "remittance" should read "remittances"; and in the sixth line, "shall obtain" should read "shall not obtain".

PART 3120—[CORRECTED]

§ 3120.3-2 [Corrected]

13. On page 22844, in the third column, in § 3120.3-2, introductory text, in the last line, "director" should read "Director".

PART 3160—[CORRECTED]

§ 3162.3-1 [Corrected]

14. On page 22846, in the second column, in § 3162.3-1(e), in the fifth line, after "location" insert a comma.

PART 3200—[CORRECTED]

§ 3206.1-1 [Corrected]

15. On page 22847, in the third column, in § 3206.1-1(c)(5)(iii), in the eighth line, "conditions of" should read "conditions or".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3130, 3150, 3160, 3180, 3200, and 3220

[AA-620-88-4111-01, Circular No. 2606]

Oil and Gas Leasing, Geothermal Resources Leasing

Correction

In rule document 88-10808 beginning on page 17340 in the issue of Monday, May 16, 1988, make the following corrections:

PART 3130—[CORRECTED]

§ 3135.1-3 [Corrected]

1. On page 17359, in the second column, in § 3135.1-3, in the heading, "Separating" should read "Separate".

PART 3150—[CORRECTED]

§ 3150.0-5 [Corrected]

2. On page 17360, in the first column, in § 3150.0-5(b), in the next to the last line, remove "and".

§ 3152.7 [Corrected]

3. On page 17361, in the first column, in § 3152.7, the second paragraph should be designated "(1)".

PART 3160—[CORRECTED]

§ 3162.3 [Corrected]

4. On page 17363, in the second column, in § 3162.3(b), in the seventh line, insert a comma after "NTL's".

5. On page 17365, in the first column, in amendatory instruction "C.", in the second line, "paragraph" was misspelled.

PART 3180—[CORRECTED]

§ 3186.1 [Corrected]

6. On page 17365, in the third column, in § 3186.1, in the paragraph following amendatory instruction A. to Section 9, in the second line, "participating" was misspelled.

7. On page 17366, in amendatory instruction "E.", in the ninth line, "If" should read "If the".

PART 3200—[CORRECTED]

§ 3200.1 [Corrected]

8. On page 17367, in the first column, in § 3200.1(c), in the fourth line, after "by" insert "the"; and in the seventh line from the bottom, "other" should read "another".

§ 3206.2 [Corrected]

9. On page 17369, in the second column, in § 3206.2, in the seventh line, "principals" was misspelled.

PART 3220—[CORRECTED]

§ 3220.2-2 [Corrected]

10. On page 17370, in the second column, in § 3220.2-2, in the second line, "information" was misspelled.

§ 3220.3 [Corrected]

11. On the same page, in the same column, in § 3220.3, in the seventh line, "appropriate" was misspelled.

PART 3100—[CORRECTED]

Group 3100—[Corrected]

12. On page 17375, in the second column, under "**Group 3100**", in the note, in the seventh line, "1104-0074" should read "1004-0074".

BILLING CODE 1505-01-D

federal register

Monday
August 22, 1988

Part II

Department of Agriculture

Forest Service

Department of the Interior

Bureau of Land Management

Deferral of Payments on High-Priced Timber Sales; Notices of Interim Policy and Request for Comments

DEPARTMENT OF AGRICULTURE

Forest Service

Deferral of Payments on High-Priced Timber Sales

AGENCY: Forest Service, USDA.

ACTION: Notice of interim policy; request for comments.

SUMMARY: This policy will revise agency procedures to permit timber sale contract modifications for high-priced timber sales bid prior to January 1, 1982. The primary objective of the new procedures is to encourage purchasers to perform the high-priced sales rather than to default them. The intended effect is to avoid the adverse economic impacts and Forest management disruptions that would occur if these sales were defaulted. Because a number of effected sales are scheduled to default between now and March 30, 1989, it is essential to effect this policy by September 1, 1988, to allow payment deferral procedures during the current operating season. However, the agency is requesting comments on this interim policy for consideration prior to adopting a final policy on deferred payment.

EFFECTIVE DATE: This policy is effective September 1, 1988. Comments on policy must be received by October 21, 1988.

ADDRESS: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this interim policy in the office of the Director, Timber Management Staff, Room 3207 South Agriculture Building, 14th and Independence, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Allan B. McCombie, Timber Management Staff, (202) 447–6862.

SUPPLEMENTARY INFORMATION:

Background and Need for Policy

During the late 1970's, the timber industry vigorously competed for available National Forest timber sales. The competition resulted from a combination of strong demand for timber, predicted price trends based on levels of inflation at that time, and predictions of a softwood timber supply shortage. These factors resulted in unprecedented high-priced sales, particularly in California, Oregon, and Washington. Before this timber could be harvested, lumber prices fell dramatically in response to a collapse in the housing market precipitated by a general economic recession.

The Government took a number of actions to alleviate the default potential of the high-priced pre-1982 sales. Contract extension policies announced by the Forest Service from 1980 thru 1983 (16 U.S.C. 472a), and the subsequent relief provided by the Federal Timber Contract Payment Modification Act of 1984 ("buy-out") (16 U.S.C. 618), together with somewhat improved Forest products markets, have eased the financial burden of many timber purchasers and lessened the risk of default on remaining high-priced contracts.

However, some purchasers, particularly in the West, still hold substantial numbers of high-priced sales bid prior to 1982 in Forest Service Regions 5 (California) and 6 (Oregon and Washington). An analysis of pre-1982 sales in these Regions, dated May 1988, shows that there is about 1.6 billion board feet of high-priced timber under contract in 350 sales. This volume remains under contract, primarily because the amounts held by purchasers at the time of buy-out application exceeded the volume entitlement under the Federal Timber Contract Payment Modification Act. These purchasers have extended these sales under the Multi-Sale Extension Program and other extension authorizations for periods of up to 5 years. As a result, these sales are now scheduled to terminate between September 30, 1988, and December 31, 1992. The majority of the high-priced volume is contained in sales that are scheduled to terminate in 1989 and 1990. Most of the high-priced volume is in Oregon, Washington, and California.

The current value of the remaining volume under contract is $600 million. The amount of damages due the Government if these sales are defaulted is estimated at $200 million.

It is important that the agency have procedures in place to try to avoid significant default, especially if market conditions deteriorate. When a contract is defaulted, the harvest of that timber is delayed until the timber can be resold and cut under a new contract. Default-delayed harvest may result in adverse economic, resource management, and environmental effects. The economies of many communities, particularly in the West, are heavily dependent upon the employment generated by the harvest and manufacture of timber from the National Forests. Timber sale defaults interrupt the flow of timber and, thereby, interrupt employment. Employment impacts of default affect not only loggers and mill workers, but also affect others dependent upon the income of timber workers. Defaults also reduce receipts to the Federal Treasury and the revenue sharing payments to local counties that are based on those receipts. County funding of roads and schools is heavily dependent on these payments.

The liability for damages due the Government arising from default, estimated at $200 million, could result in a number of firms seeking bankruptcy. Under bankruptcy procedures, the United States would become an unsecured creditor. Usually little or no assets are available for payment after all the secured creditors are satisfied in the proceedings. Even if the firms do not declare bankruptcy, default collection activities are expensive and often result in small dollar returns compared to the amount of damage payment due. In short, contract performance of these high-priced sales provides the best economic return and protection to Federal, State, and local governments as well as to timber dependent communities. Accordingly, the Forest Service is implementing a procedure to encourage holders of high-priced pre-1982 volume to perform contracts rather than defaulting them.

Interim Policy

This interim policy will provide guidance to Contracting Officers in the exercise of their existing authorities to administer Forest Service timber sale contracts. Current law provides that Contracting Officers may make modifications on unexecuted portions of a contract that will not be injurious to the United States. Modification of specified high-priced sales to implement the deferred payment policy will not be injurious to the United States and will be in the public interest. In accordance with the contract terms, the Government will receive full contract value. The current holder of a timber sale contract determined by the Forerst Service to be a high-priced contract will pay for timber under that contract at the contract price. Under this policy, the terms of payment will be modified allowing the Government to defer an amount of payment equal to the difference between the current average bid value for the Forest at time of modification, plus $50 and the average current contract value per thousand board feet (MBF). The deferred amount will be paid with interest, over a 5-year period under the terms of a fully secured promissory note. Thus, only the contract terms necessary to change the timing of payment to the Government will be modified. The procedure will only be authorized for high-priced sales bid

prior to January 1, 1982. The deferred payment modification will only be authorized after receipt of a properly prepared and executed promissory note, on a form provided by the Forest Service, for the total amount of the deferred stumpage value. The note will be fully secured by a form of security acceptable to the Forest Service on a form approved by the Forest Service, and allow for the unconditional payment upon demand by the Forest Service. The promissory note will require quarterly payments to amortize the amount of the note. Interest will be assessed against the accrued deferred amount or the remaining note balance whichever is less. Interest will be paid quarterly. The note period will generally be for a maximum of 5 years. A note with a longer term may be approved by the Regional Forester.

Key Features of the Policy

Sales Eligible For Modification

To be eligible for payment deferral modifications, timber sale contracts must meet the following criteria:

1. The bid date must be prior to January 1, 1982;
2. The remaining stumpage must have an average value per thousand board feet (MBF) that exceeds the average bid value for the previous 6-calendar months on the National Forest where the sale is located, plus $50 per MBF.
3. The contract must have sufficient contract period remaining to allow for removal of the remaining timber prior to expiration of the contract.

To make a payment deferral modification, the Contracting Officer must find that such a modification to unexecuted portions of the contract will not be injurious to the United States.

The January 1, 1982, cutoff date was selected because, in the Federal Timber Contract Payment Modification Act, Congress has already identified the period immediately prior to this date as a bidding period when cumulative market effects resulted in excessive bidding for Federal timber.

High-priced sales are defined as sales with an average current contract value per MBF, that exceeds the average bid value for sales sold in the previous 6-calendar months on the National Forest where the qualifying sale is located, plus $50 per MBF. The average bid value for the individual Forest was selected because it reflects values for the market area where the sale is located.

Authorized officials of current holders of qualifying contracts must request payment deferral in writing. The current holder is the firm currently recognized by the Forest Service as being legally responsible for contract performance. The Forest Service is not limiting the procedure to companies who bid the sales.

Requests for modification of a qualifying contract will be accepted at anytime during the sale period.

Modification of Payments

Under the interim policy, the payments for stumpage will be reduced by a deferred amount covered by a promissory note. The deferred payment rate per thousand board feet (MBF) will be determined at the time of modification. The deferred value will be the difference between the current average bid value of the Forest sales, plus $50 per MBF and the average current contract value in MBF. The Contracting Officer will use the average for the 6-calendar months immediately prior to the request for modification in determining the amount of the payment deferred. Only the species rates above the average bid rate plus $50 per MBF would be subject to payment deferral. The amount of deferral of an individual species rate, above the average bid value plus $50 would be weighted in proportion to the amount that the remaining value of a particular species represents of the total remaining value of all species above the average bid rate, plus $50 per MBF. The weighting of species values above the floor rate to determine the amount of payment deferral by species will develop a payment rate that reflects original bid values.

The determination of the amount subject to deferral will be calculated using advertised volumes at the time the sale was offered adjusted by any subsequent contract modification.

Modification of the contract will be contingent on the prior execution of a promissory note for the amount of the payment estimated by the Forest Service as being deferred. More than one note per sale, executed annually, may be considered for individual sales. The amount of harvest volume included in the note will be in accordance with the Forest Service approved plan of operation. The average current contract value for the estimated volume to be removed will be used to determine the amount of payment deferral for the multiple note procedure. This will allow the note and interest amount to reflect estimated seasonal removal volumes. This will preclude having to charge for the principal on large volumes that have to be scheduled for logging in successive years. The multiple notes may be consolidated for billing and payment purposes.

These modifications will not change current contract rates which are used for determining Removal Schedule Payments established pursuant to the Multi-Sale Extension Policy of 1983. Purchaser Credit effectiveness will be calculated using current contract rates under the terms of the contract.

Modification of the Payment Guarantee Requirements of the Contract

The requirements of the contract related to advance deposits and payment guarantees in lieu of deposits will be satisfied by deposits equal to the revised current payment amounts as established under the formula for calculating deferred payments. The Government is protected as to the amount of the deferred payment by the fully secured promissory note. In the event of an overcut, an advance cash deposit or payment guarantee in lieu of deposit must equal the total stumpage value for cut timber that is not covered by the promissory note. This requirement will insure that the value of the volume harvested above the estimated volumes is covered by payment guarantee. Full payment or revision of the promissory note, must be made for the deferred value associated with the overcut.

Limitation on Application of Deferred Payment Modifications

Retroactive payment deferrals will not be allowed for previously harvested volumes under the proposal. The performance bond amount will not be reduced under the deferred payment procedures.

Breach

Failure to make a note payment will result in suspension of operations and breach of the provision for deferred payment. A defaulted note could result in contract termination.

Promissory Note Procedures

Under the interim policy, the promissory note will be for the amount of the payment deferred, as estimated by the Forest Service. The contract holder may select the promissory note term, generally up to 5 years. Regional Forester authorization will be required for note periods in excess of 5 years. The maximum note period is 10 years. Authorization for the additional period will be based on a determination that the purchaser has a compelling need. Purchasers will provide financial information to the Regional Forester to support the need for the additional note period. The Regional Forester will coordinate the granting of additional

term with the State Director of the Bureau of Land Management. The note principal amount will be due in equal quarterly payments. The initial principal payment will be due on January 1 of the year following the date of note execution. The remaining payments will be due April 1, July 1, October 1, and January 1. Interest will begin to accrue on the amount of deferral at the time stumpage payment for deferred timber is due. Interest will be calculated on the accrued amount of the deferral or the outstanding remainder of the note whichever is less. Interest will be billed quarterly. The note must be executed and presented to the Forest Service prior to modification of contract terms. The interest rate will be adjusted at each payment and will be equal to the average market yield of outstanding Treasury obligations with remaining years to maturity of 5 years.

Payment of the note must be secured by an acceptable form of security. Acceptable forms of security are specified in the Forest Service Finance and Accounting Handbook (FSH 6509.11k, Chapter 80). The Handbook is available at all Forest Supervisor Offices. Examples of acceptable forms of security include bonds by an acceptable surety, irrevocable letters of credit, or securities of the United States. The security amount must be sufficient to cover the entire amount of the note. The contract holder or surety where applicable may make pre-payment of all or a portion of the outstanding remainder of the note on the date of any quarterly payment.

The amount of the deferred payment value used for the note will be initially calculated using the original advertised contract volumes as adjusted by any subsequent contract modification. The actual principal amount will be recalculated at the completion of harvest of the volume covered by the note, when the exact amount of the deferred value is known. The note will be revised to reflect actual obligations. Actual Forest Service scaled or payment unit volume will be used to determine the note value.

The amount of bond security may be reduced to reflect the current amount of the promissory note obligation during the note period.

The note payments may be assumed by the surety if the principal is unable to make the quarterly payments.

If contract term adjustment for 30 days or more is granted, after the contract modification, the note obligation will be revised to reflect adjusted harvest volumes resulting from approved delays.

Alternatives Considered

In considering the need to avoid default on these high-priced sales, the Forest Service has considered alternative approaches. Those alternatives are: (1) To do nothing; (2) to allow harvest of these sales at rates reduced from current contract rates but higher than current market rates; (3) to allow purchasers to harvest sales at a reduced rate with the difference between the reduced rate and current rates due at the termination date of the contract. The final amount due at the end of the contract would be negotiable based on sample case litigation.

The first alternative—to take no action—will create serious economic impacts on the timber dependent communities in the West where these high-priced sales are located, will substantially reduce receipts to the Federal Treasury and affected counties that otherwise would be generated, and will have adverse impacts on the planned management of the National Forests where these sales have been sold. Current timber prices simply are not adequate for the holders of these contracts to operate these sales without a substantial loss.

The second approach was rejected because it would result in purchasers paying less than the full contract value for harvested timber, negating the fundamental principle that a contract is binding on the parties who enter it.

The third alternative was rejected because it would result in allowing the harvesting of timber without payment in advance of cutting and without satisfactory payment guarantee as required by law. This alternative also includes an expectation of settlement for a value less than the contract requires. Moreover, alternatives (2) and (3) would require new statutory authorization to enable the agency to collect less money than it is entitled to under a contract or to allow removal of timber without advance payment. Because of the deliberative nature of the legislative process, it is doubtful that such legislation could be enacted in sufficient time to prevent default of those high-priced sales coming due in 1989.

In contrast to a legislative remedy, the policy and procedures being implemented are within the agency's existing authority and will be adopted in sufficient time to provide an alternative to default of most of these sales. The policy requires full contract payment; the modification affects only the timing of payment. It encourages the purchaser to operate eligible sales by giving them the ability to spread losses over a period of time. Purchasers will be allowed to defer a portion of the payment for up to 5 years, paying interest and providing additional security as consideration for the Government's willingness to modify contract terms to defer receipt of full payment.

Implementation and Public Comment Requested

This general statement of policy is issued by the Forest Service to advise the public prospectively of the manner in which the agency proposes to exercise its discretion to modify contracts and to receive and analyze comments before preparing the final policy direction in the Forest Service Manual. As such, this notice is exempt from the requirements of 5 U.S.C. 553(b) and (d).

The interim policy is being implemented on September 1, 1988, to allow purchasers of qualifying sales the earliest possible opportunity to begin harvesting under the deferred payment procedures. Many of the qualifying sales will terminate and become defaulted if harvesting is not completed by March 31, 1989. Harvesting operations are seasonal, the best operating conditions are experienced during the summer and early fall periods. The interim policy is needed to allow an additional 2 months operations, September and October for the qualifying sales. Rapid implementation is critical to encourage operation and lessen the potential for default. The early implementation will provide full coordination with the Bureau of Land Management which is promulgating a similar policy.

In accordance with 36 CFR 216.6, the public is invited to submit written comments on the interim policy which will be analyzed and considered in adoption of final policy. The new policy will be issued in Forest Service Manual, Chapter 2450, and Forest Service Handbook 2409.15, Chapter 30.

Regulatory Impact

This act has been reviewed under U.S. Department of Agriculture policy and procedures as well as submitted to the Office of Management and Budget for review pursuant to Executive Order (E.O.) 12291. It has been determined that this policy does not have the effects of a major rule as defined in E.O. 12291. The procedure implemented by this policy will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs for consumers, individual industries, Federal, State, or local government agencies or geographic regions, and will not have significant adverse effects on the ability of United States-based

industries to compete with foreign-based enterprises in domestic or export markets. It does not change the total amount a purchaser will pay for National Forest timber, although it will affect the timing of when a purchaser will have to pay the full price for stumpage under a Forest Service contract. The deferred payment will be made under the terms of a fully secured promissory note. The note will require interest charges as consideration for payment deferral.

The timing of payments to the Government will be delayed but the note interest will compensate for the deferral. The risk of nonpayment will be avoided by requiring a fully secured promissory note. Counties who share in revenues generated from Federal timber sales will experience a short-term deferral in receipts. However, the short-term effects are likely to have far less adverse impact than if these sales were defaulted. Since purchasers will eventually pay the full contract value, the long term receipts to affected counties will be far greater than would be received if the sales were defaulted and resold. The procedures will contribute to the economic well-being of timber-dependent communities, the orderly flow of timber to market and receipts to Treasury, strengthen the orderly accomplishment of resource management objectives, and reduce administrative costs associated with collection of claims against defaulting purchasers.

It has also been determined that this policy will not have significant economic impact on a substantial number of small entities. The policy works to preserve the long range revenues to affected counties and to maintain employment in the area and, thus, reduces the certain adverse economic impacts these entities would experience in the event of default and bankruptcy of purchasers of these high-priced sales.

Based on both past experience and environmental analysis, the policy will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4). Furthermore, the policy would not result in additional procedures or paperwork not already required by law. Therefore, the provisions of the 5 CFR Part 1320 relating to controlling paperwork burdens on the public do not apply.

Date: August 2, 1988.

George M. Leonard,

Associate Chief, Forest Service.

[FR Doc. 88-18893 Filed 8-19-88; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-230-08-6310-02]

Deferral of Payments on High-Priced Timber Sales

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of interim policy; request for comments.

SUMMARY: This interim policy revises agency procedures to permit modifications of high-priced timber sale contracts that were bid prior to January 1, 1982. The primary objective of this action is to encourage purchasers to perform the high-priced sales rather than to default them. The intended effect is to avoid the adverse economic impacts and forest management disruptions that would occur if these sales were defaulted.

The need for an interim policy is based on the anticipated default of sales due to expire on December 31, 1988. It is essential to put this policy into effect by September 1, 1988, to allow payment deferral procedures that would permit all harvest activities, including road construction, to be completed in a timely manner. However, the agency is requesting comment which will be considered in adoption of final policy.

EFFECTIVE DATE: September 1, 1988. Comments should be submitted by October 21, 1988. Comments received or postmarked after the above date may not be considered as part of the decisionmaking process on the issuance of a final policy.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Department of the Interior, 1800 'C' Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Lyndon Werner (202) 653-8864.

SUPPLEMENTARY INFORMATION:

Background and Need for Policy

Bidding on timber contracts during 1979-1980 in Oregon rose to record high levels. When interest rates rose in the early 1980's, timber markets collapsed and the industry could not complete the contracts without incurring substantial losses. Recognizing the dilemma, the Department of the Interior granted grace period extensions beginning in November 1981; further extensions were granted in August 1983 on contacts bid prior to January 1, 1982, under the President's 5-year extension program, which extended the currently uncompleted contracts to 1988 and 1989. Also, the Timber Contract Payment Modification Act was passed in 1984 permitting the return to the Government of 274 Bureau of Land Management contracts totaling 1.28 billion board feet valued at $430 million.

Of the remaining volume 0.43 billion board feet valued at $127 million are in uncompleted contracts as of July 1988. The majority of these remaining contracts are due to expire on December 31, 1989. A small number of contracts were further extended into 1990 through the purchase of extension-credit fire salvage sales.

The objectives of these efforts to assist the timber industry were: To recognize the legislative directive to ensure community stability; to minimize disruptions to the Bureau of Land Management forest management program; to maintain the availability of commercial timber in the market place; and to hold purchasers responsible for outstanding high priced timber sale contracts.

Indications are that current and future market conditions will not support meeting these objectives through economical harvest of the majority of the remaining contracts. The probable consequence will be contract defaults. This is not in the best interest of the government not only because of the failure to meet the aforementioned objectives but also the high cost to the Government of reoffering contracts and collecting damages.

When a contract is defaulted, the harvest of that timber is delayed until the timber can be resold and cut under a new contract. Default-delayed harvest may cause adverse economic, forest management, and environmental impacts. The economies of many communities in Oregon are significantly dependent upon the employment generated by the harvest and manufacture of timber from Bureau of Land Management-administered forest land. Timber sale defaults interrupt the flow of timber and, thereby, interrupt employment. Employment impacts of default affect not only loggers and mill workers, but also others dependent upon the income of timber workers. Defaults also reduce receipts to the Federal Treasury and the revenue sharing payments to local counties that are based on those receipts.

The liability for damages due the Government arising from default could result in a number of firms seeking bankruptcy. Under bankruptcy procedures, the United States would become an unsecured creditor. Usually few or no assets are available for payment after all the secured creditors are satisfied in the proceedings. Even if the firms do not declare bankruptcy, default collection activities are expensive and often result in smaller dollar returns compared to the amount of damage payments due. In short, contract performance of these high-priced sales provides the best economic return and protection to Federal and local governments as well as to timber-dependent communities. Accordingly, the Bureau of Land Management is implementing a procedure to encourage holders of high-priced pre-1982 volume to perform contracts rather than defaulting them.

Key Features of the Interim Policy

Sales Eligible for Modification

To be eligible for payment deferral modifications, timber sale contracts must meet the following criteria:

1. The bid date must be prior to January 1, 1982;

2. The remaining stumpage must have an average value per thousand board feet that exceeds the average bid value for the previous 6 calendar months for the Bureau of Land Management District in which the sale is located, plus $50 per thousand board feet.

3. The contract must have sufficient contract period remaining to allow for removal of the remaining timber prior to expiration of the contract.

The January 1, 1982, date was selected because Congress has already identified in the Federal Timber Contract Payment Modification Act the period immediately prior to this date as a bidding period when cumulative market effects resulted in excessive bidding for Federal Timber.

Authorized officials of current holders of qualifying contracts must request payment deferral in writing. The current holder is the entity currently recognized by the Bureau of Land Management as being legally responsible for contract performance. The Bureau of Land Management is not limiting the procedure to companies that bid the sales.

Requests for modification of a qualifying contract must be submitted prior to the commencement of harvest on timber volume to be covered by the modification. The modification, additional securities, and note must be fully executed prior to the cutting and removal of covered timber.

Interim Policy and Promissory Note Procedures

The interim policy for existing high-priced sales will provide guidance to Authorized Officers in the exercise of their existing authorities to administer Bureau of Land Management timber sale contracts. Modification of specified high-priced sales to implement this proposed deferred payment policy will be in the public interest. In accordance with the contract terms, the Government will receive full contract value. The current holder of a timber sale contract determined by the Bureau of Land Management to be a high-priced contract will pay for timber under that contract at the contract price. Under this policy, the terms of payment will be modified allowing the Government to defer an amount of payment equal to the difference between the current average bid value at time of modification for the Oregon Bureau of Land Management District in which the sale is located, plus $50 and the average current contract value per thousand board feet. The difference between the average bid value and the current contract value (deferred payment) will be paid with interest, over a maximum of 10 years, under the terms of a fully secured promissory note. In most cases note terms will be 5 years or less and will be approved by the Authorized Officer. Application for note terms from 6 to 10 years must show evidence of need based on compelling circumstances and must be approved by the State Director after consultation with the Forest Service Regional Forester.

Interest payments on the harvest-level-based accruing increments of deferred payment shall be paid quarterly after commencement of harvest. The full amount of deferred payment specified in the promissory note, as estimated by the Bureau of Land Management, will require quarterly payments to amortize the amount of the note with payments to commence the first January 1 following the execution of the note. Prior to the completion of harvest, interest paid will be calculated on the amount of harvest-level-based accruing increments of deferred payment or the remaining balance of the note, whichever is less. Upon completion of harvest, interest paid will be calculated on the remaining balance of the note. Thus, only the contract terms necessary to change the timing of payment to the Government will be modified. The deferred payment modification will be authorized only after receipt of a properly prepared and executed promissory note, on a form approved by the Bureau of Land Management, for the total amount of the deferred stumpage value. The note must be fully secured by a form of security acceptable to the Bureau of Land Management and allow for unconditioned payment upon demand by the Bureau of Land Management.

The security amount must be sufficient to cover the entire amount of the note. The contract holder or surety, where applicable, may make pre-payment of all or a portion of the outstanding remainder of the note on the date of any quarterly payment. The amount of the bond security may be reduced to reflect the current amount of the promissory note obligation during the note period. The note payments may be assumed by the surety if the principal is unable to make the quarterly payments.

The interest rate will be adjusted at each payment and will be equal to the average market yield of outstanding Treasury obligations with 5 years remaining to maturity.

Modification of Payments

Under this policy, the payments for stumpage will be reduced by a deferred amount covered by a promissory note. The deferred payment rate per thousand board feet will be determined at the time of modification. The deferred value will be the difference between the current average bid value for the Oregon Bureau of Land Management District in which the sale is located, plus $50 per thousand board feet, and the average current contract value in thousand board feet. The current 6 month average bid value for the five western Oregon Bureau of Land Management Districts plus the $50 differential value produces the following rate reduction floors per thousand board feet: Salem—$239.08; Eugene—$204.52; Roseburg—$169.27; Coos Bay—$190.87; and Medford—$174.43. The authorized officer will use the average for the 6 full calendar months immediately prior to the request for modification in determining the amount of the payment deferred. Only the rates bid for particular species that are above the average bid rate plus $50 per thousand board feet will be subject to payment deferral. The amount of deferral of an individual species rate above the average bid value plus $50 will be weighted in proportion to the amount that the remaining value of a particular species represents of the total remaining value of all species above the average bid rate, plus $50 per thousand board feet. The weighting of species values above the floor rate to determine the amount of payment deferral by species will develop a payment rate that

reflects original bid values. The determination of the amount subject to deferral will be calculated based on the unhauled volume on the contract area at the time of modification.

More than one per sale, executed annually, will be considered for sales expected to require more than one year for harvest. For the multiple note procedure, the amount of the note will be based on the volume scheduled for removal in an approved logging plan. The average current contract value for the estimated volume to be removed will be used to determine the amount of payment deferral for the multiple note procedure. This will allow the note and interest amount to reflect estimated seasonal removal volumes. This will preclude having to charge for principal and interest on large volumes that have to be scheduled for logging in successive years. For billing purposes, multiple notes can be consolidated.

Modification of the Payment Guarantee Requirements of the Contract

The requirements of the contract related to advance installments and payment guarantees in lieu of deposits will be satisfied by installments or payment guarantees equal to the revised current payment amounts as established under the formula for calculating deferred payments. The Government is protected as to the amount of the deferred payment by the fully secured promissory note. In the event of an overcut, advance cash installments or payment guarantee in lieu of installments must equal the total stumpage value for cut timber that is not covered by the promissory note. This requirement will assure that the value of the volume harvested above the estimated volumes is covered by payment guarantee. Full payment or revision of the promissory note must be made for the deferred value associated with the overcut.

Limitation on Application of Deferred Payment Modifications

Retroactive payment deferrals will not be allowed for previously harvested volumes under the policy. The performance bond amount will not be reduced under the deferred payment procedures.

Breach

Failure to make a note payment is a breach of the provision for deferred payment and could result in suspension of operations. A defaulted note could result in contract cancellation.

Alternatives Considered

In considering the need to avoid default on these high-priced sales, the Bureau of Land Management has considered other approaches. Those alternatives are: (1) No action; (2) allow harvest of these sales at rates reduced from current contract rates; (3) allow purchasers to harvest sales at a reduced rate with the difference between the reduced rate and current rates due at the termination date of the contract. The final amount due at the end of the contract will be negotiable based on sample test litigation.

The first alternative—no action—would create serious economic impacts on the timber dependent communities in Oregon where these high-priced sales are located, would substantially reduce receipts to the Federal Treasury and affected counties that otherwise would be generated, and would have adverse impacts on the planned management by the Bureau of Land Management where these sales have been sold. Current timber prices are not adequate for the holders of these contracts to operate these sales without a substantial loss, and economic forecasts do not predict a return to the high prices in effect when these sales were originally bid.

The second approach was rejected because it would result in purchasers paying less than the full contract value for harvested timber, negating the fundamental principle that a contract is binding on the parties who enter it.

The third alternative was rejected because it would result in allowing the harvest of timber without payment in advance of cutting and without satisfactory payment guarantees. This alternative also includes an expectation of settlement for a value less than the contract requires.

The policy and procedures being proposed are within the agency's existing authority and can be adopted in sufficient time to provide an alternative to default for the majority of the sales in question.

The interim policy being adopted requires full contract payment; the modification affects only the timing of payment. It encourages the purchaser to operate eligible sales by giving him/her the ability to spread losses over a period of time. Purchasers will be allowed to defer a portion of the payment for up to 10 years, paying interest and providing additional security as consideration for the Government's willingness to modify contract terms to defer receipt of full payment.

Implementation and Public Comment Requested

The public is invited to submit written comments on this interim policy which will be analyzed and considered in adoption of final policy. In particular, comment is requested on the limits of eligibility. The interim policy will become effective September 1, 1988, in recognition of the anticipated default of sales due to expire on December 31, 1988, and the need to complete road construction on some sales due to expire on December 31, 1989.

Regulatory Impact

This action has been reviewed under U.S. Department of the Interior policy and procedures as well as submitted to the Office of Management and Budget for review pursuant to Executive Order (E.O.) 12291. It has been determined that this policy does not have the effects of a major rule as defined in E.O. 12291. The procedure implemented by this policy will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs for consumers, individual industries, Federal, State, or local government agencies or geographic regions, and will not have significant adverse effects on the ability of United States-based industries to compete with foreign-based enterprises in domestic or export markets. It does not change the total amount a purchaser will pay for Bureau of Land Management timber, although it will affect the timing of when a purchaser will have to pay the full price for stumpage under a Bureau of Land Management contract. The deferred payment will be made under the terms of a fully secured promissory note. The note will require interest charges as consideration for payment deferral.

The timing of payments to the Government will be delayed but the note interest will compensate for the deferral. The risk of nonpayment will be avoided by requiring a fully secured promissory note. Counties that share in revenues generated from Bureau of Land Management timber sales will experience a short-term deferral in receipts. However, the short-term effects are likely to have far less adverse impact than if these sales were defaulted. Since purchasers will eventually pay the full contract value, the long term receipts to affected counties will be far greater than will be received if the sales are defaulted and the timber resold. The proposed procedures will contribute to the economic well-being of timber-dependent communities, and the orderly

flow of timber to market and receipts to the Treasury will strengthen the orderly accomplishment of forest management objectives, and reduce administrative costs associated with collection of claims against defaulting purchasers.

It has also been determined that this policy will not have a significant economic impact on a substantial number of small entities. The policy works to preserve the long range revenues to affected counties and to maintain employment in the area and, thus, reduces the certain adverse economic impacts these entities will certainly experience in the event of default and bankruptcy of purchasers of these high-priced sales.

Based on both past experience and environmental analysis, the interim policy will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from analysis in an environmental assessment or an environmental impact statement (40 CFR 1508.4). Furthermore, the policy will not result in additional procedures or paperwork not already required by law. Therefore, the provisions of the 5 CFR Part 1320 relating to controlling paperwork burdens on the public do not apply.

Tom Allen,

Acting Deputy Director.

[FR Doc. 88-18904 Filed 8-19-88; 8:45 am]

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federal register

Monday
August 22, 1988

Part III

Congressional Budget Office

Sequestration Report for Fiscal Year 1989 to Office of Management and Budget and Congress; Transmittal

CONGRESSIONAL BUDGET OFFICE

Sequestration Report to Office of Management and Budget and Congress; Transmittal

AGENCY: Congressional Budget Office.

ACTION: Report transmittal.

SUMMARY: This notice transmits the initial sequestration report for Fiscal Year 1989 to the Office of Management and Budget and the Congress in accordance with the new procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Pub. L. 100–119.

Stanley L. Greigg,

Director, Office of Intergovernmental Relations, Congressional Budget Office.

BILLING CODE 1450-01-M

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1989

A Congressional Budget Office
Report to the Congress
and the Office of Management and Budget

August 20, 1988

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NOTES

All years referred to in this report are fiscal years, unless otherwise noted.

Details in the text and tables of this report may not add to totals because of rounding.

The Balanced Budget and Emergency Deficit Control Act of 1985 (commonly known as Gramm-Rudman-Hollings) is also referred to in this report more briefly as the Balanced Budget Act. The amendments to this act made by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, are also referred to in this report more briefly as the Reaffirmation Act.

The source for all data in this report is the Congressional Budget Office, unless otherwise noted.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC 20515

August 20, 1988

Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Miller:

I herewith submit to you my *Initial Sequestration Report for Fiscal Year 1989*, as required by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

Based on our appraisal of the economic and budgetary outlook, the Congressional Budget Office estimates that the budget deficit in fiscal year 1989 will reach $153 billion, which exceeds by $17 billion the $136 billion target specified in the act.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide you with any assistance that you may require in preparing your own initial sequestration report.

Sincerely yours,

James L. Blum

James L. Blum
Acting Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC 20515

August 20, 1988

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1989*, as required by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

The act specifies a 1989 deficit target of $136 billion. An across-the-board reduction of budgetary resources will be triggered if the deficit estimate made by the Office of Management and Budget exceeds the target by more than $10 billion. Based on an independent appraisal of the economic and budgetary outlook, the Congressional Budget Office estimates that the budget deficit in fiscal year 1989 will reach $153 billion, which exceeds the target by $17 billion.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget to be issued on August 25, 1988.

Sincerely yours,

James L. Blum

James L. Blum
Acting Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC 20515

August 20, 1988

Honorable James C. Wright, Jr.
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1989*, as required by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

The act specifies a 1989 deficit target of $136 billion. An across-the-board reduction of budgetary resources will be triggered if the deficit estimate made by the Office of Management and Budget exceeds the target by more than $10 billion. Based on an independent appraisal of the economic and budgetary outlook, the Congressional Budget Office estimates that the budget deficit in fiscal year 1989 will reach $153 billion, which exceeds the target by $17 billion.

This report presents the assumptions underlying CBO's deficit estimate, and calculates the amounts and percentages by which various budgetary resources would need to be sequestered to reduce the deficit to the target level under these assumptions.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget to be issued on August 25, 1988.

Sincerely yours,

James L. Blum
Acting Director

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1989

A CONGRESSIONAL BUDGET OFFICE REPORT TO THE CONGRESS AND THE OFFICE OF MANAGEMENT AND BUDGET

August 20, 1988

SUMMARY

Under the Balanced Budget and Emergency Deficit Control Reaffirmation Act (Public Law 100-119), the Congressional Budget Office (CBO) is charged with providing--on an advisory basis--estimates of the federal budget deficit and related aggregates to the Office of Management and Budget (OMB) and the Congress. CBO's current appraisal of the economic and budgetary outlook, following the specifications of the Reaffirmation Act, projects a fiscal year 1989 federal budget deficit that will exceed the $136 billion target by $17 billion. An independent, and binding, estimate of the projected deficit will be made by the Director of OMB, and that estimate will determine the necessity and magnitude of sequestration. Based on the Administration's *Mid-Session Review of the 1989 Budget* and laws enacted since July 8, 1988, it appears that OMB's initial estimate--due on August 25, 1988--will exceed the target by about $8 billion; this excess, however, is less than the $10 billion margin-of-error specified by the act for 1989 and would not trigger sequestration.

INTRODUCTION

The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 set out deficit targets to be met by the federal government over the next five years and provided a procedure--known as sequestration--to cut federal spending automatically when the Administration projects an excess deficit. The act provides a $10 billion margin-of-error for 1989 through 1992, but none for 1993, since the act specifies a balanced budget by that year. The deficit targets specified by the act are:

Fiscal Year	Maximum Deficit (In billions of dollars)
1989	136
1990	100
1991	64
1992	28
1993	0

The sequestration of budgetary resources would be triggered automatically under the following conditions:

- For 1989, if the deficit estimated by the Office of Management and Budget exceeds $146 billion (the deficit target of $136 billion plus the $10 billion margin) and if the amount of net deficit reduction achieved through laws enacted and regulations promulgated since January 1, 1988, is less than $36 billion.

- For 1990 through 1992, if the estimated deficit at the beginning of each fiscal year exceeds the deficit target by more than $10 billion.

- For 1993 only, if there is any estimated deficit on October 15, 1992.

Sequestration involves the permanent cancellation of new budget authority and other authority to obligate and expend funds, except for special and trust funds, where the sequestered amounts of spending authority remain in the funds. The sequestration of budgetary resources is designed to achieve outlay reductions sufficient to reach the annual deficit targets, except for 1989, when the outlay reductions that can be achieved through sequestration are limited to $36 billion.

The Reaffirmation Act specifies roles for the Congressional Budget Office, the Office of Management and Budget, and the Comptroller General. CBO's role is to advise OMB and the Congress, while the Director of OMB must determine whether or not sequestration is necessary and the magnitude of sequestration. Each year, CBO and OMB are required to prepare independently two sets of sequestration reports. The CBO reports are transmitted to the Director of OMB and to the Congress, and they provide a benchmark against which the Congress and others may assess the OMB reports. The OMB reports are made to the President and to the Congress, and they provide the basis for sequestration orders to be issued by the President. The timetable

for the agency reports and sequestration orders is shown below.

The initial CBO and OMB sequestration reports are to be based on laws that are enacted and regulations that are final at the time of a common snapshot date. The revised reports, however, must be based on laws enacted and regulations promulgated by the latest possible date before they are issued. Therefore, because the snapshot date may be different in the two agencies' final reports, some legislation and regulations reflected in one report may not be reflected in the other.

The role of the Comptroller General under the Reaffirmation Act is threefold: to prepare a report each year to the Congress and the President that certifies whether the final sequestration order issued by the President complies with the requirements of the Balanced Budget Act; to assess the compliance and accuracy of the OMB sequestration reports; and to make recommendations for improving sequestration procedures. The Comptroller's report is due on November 15.

This document is the initial CBO report for 1989. The report:

- Estimates budget baseline levels as of January 1, 1988, and August 15, 1988, the amount of net deficit change that has occurred between the two dates, and the outlay reductions required for 1989;

Snapshot date for initial CBO and OMB reports	August 15
Initial CBO report	August 20
Initial OMB report	August 25
Initial sequestration order	August 25
Revised CBO report	October 11[a]
Revised OMB report	October 15
Final sequestration order	October 15

a. The statutory date for the revised CBO report is October 10, which is a legal holiday in 1988. The report will therefore be submitted on the following day, as prescribed by the Reaffirmation Act.

- Provides CBO economic assumptions used for the two baseline estimates, including the estimated rate of real economic growth for fiscal year 1989 by quarter; and
- Calculates the amounts and percentages by which various budgetary resources must be sequestered in order to achieve the required outlay reductions.

BUDGET BASELINE TOTALS

The CBO budget baseline estimates of total revenues, outlays, and the deficit for fiscal year 1989 are shown in Table 1. These estimates are made in accordance with the specifications set forth in the Reaffirmation Act. Two sets of budget baseline estimates are provided--one for laws and regulations in effect on January 1, 1988, and the other for laws and regulations in effect on August 15, 1988. The economic and technical assumptions used for the August 15 budget baseline estimates are identical to those used for the January 1 estimates. The differences between the two sets of estimates, therefore, result only from laws enacted and final regulations promulgated since January 1.

Table 1. CBO ESTIMATES OF BUDGET BASELINE TOTALS FOR FISCAL YEAR 1989
(In billions of dollars)

Budget Aggregates	As of January 1	As of August 15	Difference
Revenues	979.5	979.8	0.3
Outlays	1,127.0	1,132.8	5.8
Deficit	147.5	153.0	5.5

The specifications for the budget baseline were altered by the Reaffirmation Act to approximate more closely the concepts that have been used by OMB in its current services estimates and by CBO in its baseline projections--primarily in the treatment of annual appropriations. When appropriations for the new fiscal year have not been enacted, the CBO and OMB budget baseline estimates under the act are to be based on the appropriations enacted for the previous year with an adjustment for inflation and increased pay costs. The act specifies the inflation factor as the estimated annual increase in the gross national product implicit price deflator, estimated by CBO to be 4.2 percent. For 70 percent of personnel costs, this inflation factor is increased to allow for higher agency retirement costs, and is reduced to account for 22 percent historical pay absorption.

For nonappropriated spending accounts and revenues, the baseline estimates assume that current laws and regulations will continue unchanged, and that expiring provisions of law will terminate as scheduled. The Reaffirmation Act, however, provides an exception to the general treatment of expiring provisions in the cases of excise taxes dedicated to a trust fund, Commodity Credit Corporation agricultural price support programs, and contract authority for transportation trust funds. As required by the act, the budget baseline estimates include the receipts and outlays of the Social Security trust funds, even though they are legally off-budget.

The Reaffirmation Act provides that asset sales and loan prepayments shall neither be included in the budget baseline estimates nor count toward any net deficit reduction. The act makes an exception for asset sales and loan prepayments that are routine and ongoing according to fiscal year 1986 practices and for asset sales mandated by law as of September 17, 1987. The budget baseline estimates may not, however, assume or reflect an acceleration of routine asset sales and loan prepayments. Table 2 lists the prepayments excluded from the CBO baseline for fiscal year 1989.

The act also prohibits the inclusion of savings resulting from the transfer of outlays, receipts, or revenues from one year to an adjacent year, except for certain types of transfers identified in law. No such savings apply to fiscal year 1989.

Under these specifications, CBO's estimate as of August 15, 1988, of the budget baseline deficit for 1989 is $153.0 billion.

Table 2. ADJUSTMENTS TO FISCAL YEAR 1989 DEFICIT FOR ASSET SALE AND LOAN PREPAYMENT EXCLUSIONS
(In billions of dollars)

Baseline deficit estimate[a]	147.8
Adjustments:	
Asset sales	0
Prepayments	
Foreign Military Sales credits	4.7
Rural Electrification loans	0.5
Total adjustments	5.2
Reaffirmation Act deficit estimate	153.0

a. Congressional Budget Office, *The Economic and Budget Outlook: An Update* (August 1988), adjusted for the enactment of the Dire Supplemental Appropriations Act of 1988 (P.L. 100-393).

Table 3 shows the estimated budget effect of laws enacted and final regulations promulgated since January 1, 1988. The estimated net deficit change that has occurred since January 1 is an increase of $5.5 billion. The increase stems primarily from the enactment of the Disaster Assistance Act of 1988 (Public Law 100-387), which compensates farmers for the effects of this year's drought; other laws enacted between January 1 and August 15, 1988, have little effect on the budget baseline deficit for 1989, as shown in Table 3.

CBO's final sequestration report will be issued on October 11, 1988, and will take into account legislation enacted since August 15. Before Congress recessed last week, several additional spending measures were cleared and sent to the President. If signed, these bills would have the following effects on the 1989 deficit:

- The Omnibus Trade and Competitiveness Act (H.R. 4848) would increase the deficit by $0.4 billion;
- The Housing and Independent Agencies Appropriations Act for Fiscal Year 1989 (H.R. 4800) would increase the deficit by $0.5 billion;
- The Hunger Prevention Act (S. 2560) would increase the deficit by $0.3 billion.

Table 3. CBO ESTIMATES OF DEFICIT CHANGES FOR FISCAL YEAR 1989 (In billions of dollars)

Budget Baseline Deficit as of January 1, 1988	147.5
Effect of New Laws and Regulations:	
Medicare Catastrophic Coverage Act (P.L. 100-360)	-0.2
Energy and Water Appropriations Act (P.L. 100-371)	a
Disaster Assistance Act (P.L. 100-387)	5.1
Dire Emergency Supplemental Appropriations Act (P.L. 100-393)	0.3
Other	0.1
Debt service costs	0.2
Net Deficit Change	5.5
Budget Baseline Deficit as of August 15, 1988	153.0

a. Less than $50 million.

ECONOMIC ASSUMPTIONS

The principal economic assumptions underlying the CBO budget baseline estimates for fiscal year 1989 are shown in Table 4.

The Balanced Budget Act requires the Directors of OMB and CBO to estimate the rate of real economic growth for the fiscal year covered by their reports, for each quarter of the fiscal year, and for the last two quarters of the preceding fiscal year. If either OMB or CBO projects real economic growth to be less than zero for any two consecutive quarters, or if the Department of Commerce reports actual real growth to have been less than 1 percent for two consecutive quarters, the Congress and the President may suspend many of the provisions of the act. Table 4 cites the CBO estimates for the rate of real economic growth for fiscal year 1989; Table 5 shows the quarterly estimates. CBO does not project real economic growth to be less than zero in any quarter during fiscal year 1989.

Table 4. CBO ECONOMIC ASSUMPTIONS FOR FISCAL YEAR 1989

Gross National Product:	
Billions of current dollars	5,102
Percent change, year over year	7.0
Bilions of constant (1982) dollars	4,072
Percent change, year over year	2.6
GNP Implicit Price Deflator (Percent change, year over year)	4.2
CPI-W (Percent change, year over year)	4.8
Civilian Unemployment Rate (Percent, fiscal year average)	5.5
Interest Rates (Fiscal year average):	
91-day Treasury bills	7.0
10-year Treasury notes	9.1

REQUIRED OUTLAY REDUCTIONS

Sequestration of budgetary resources will be necessary for 1989 if the deficit estimated by OMB exceeds the $136 billion target by more than the $10 billion margin-of-error amount. Once sequestration is triggered, budget outlays must be reduced by the entire amount by which the deficit exceeds $136 billion. The reduction is subject to a ceiling (for 1989 only) of $36 billion, adjusted for the net deficit reduction, if any, since January 1. One-half of the required outlay reduction must be taken from defense programs (budget accounts in the national defense function, 050, excluding the Federal Emergency Management Agency) and the other half from nondefense programs. CBO's deficit projection of $153.0 billion would call for outlay reductions of $17 billion in 1989. Table 6 shows how budget outlays in defense and nondefense programs would be cut back to achieve these reductions.

All savings from eliminating automatic spending increases in three programs--the National Wool Act, the special milk program, and vocational rehabilitation--are applied to the required reduction in outlays for nondefense programs. According to CBO estimates, this would produce $48 million in outlay savings in 1989. The outlay savings to be obtained by applying four special rules are also credited to the required spending reductions in nondefense programs. These special rules are for guaranteed student loans, foster care and adoption assistance, Medicare, and certain health programs, and are described in a later section of this report. Outlay savings for these programs under the special rules would be $1.7 billion.

The outlay reductions of $8.5 billion in defense programs and the remaining reductions of $6.8 billion in nondefense programs must be taken on a uniform percentage basis, computed separately for each category. The uniform reduction percentages are computed from outlay estimates. The required outlay

Table 5. REAL ECONOMIC GROWTH RATES FROM PREVIOUS QUARTER
(Percentage growth at annual rates)

Fiscal Year 1988	
Actual[a]	
January-March 1988	3.4
April-June 1988	3.1
Estimated	
July-September 1988	1.7
Fiscal Year 1989	
Estimated	
October-December 1988	2.3
January-March 1989	3.4
April-June 1989	2.8
July-September 1989	2.5

a. As reported by the Department of Commerce (July 27, 1988).

savings to be achieved through across-the-board reductions are divided by the estimated outlays from sequesterable budgetary resources in each category. The resulting uniform reduction percentages are then applied to all of the sequesterable budgetary resources (budget authority, credit authority, and other spending authority) for defense and nondefense programs.

According to CBO estimates, the 1989 outlays associated with sequesterable budgetary resources for defense programs are $115.5 billion. This amount excludes $76 billion in 1989 outlays for military personnel accounts that the President has chosen to exempt from sequestration, which he is permitted to do under the Reaffirmation Act. The Director of OMB, acting for the President, notified the Congress of this exemption on August 12, 1988. Outlays from obligated defense balances in 1989 are also excluded by law from the sequesterable outlay base. The uniform percentage to be applied to sequesterable defense budgetary resources is 7.4 percent, as shown in Table 6. Without the exemption for military personnel accounts, the defense outlay base would be higher, and the uniform percentage reduction would be smaller--by 3 percentage points--since the total required defense outlay reduction of $8.5 billion is unchanged by the President's action.

Table 6. CBO SEQUESTRATION CALCULATIONS FOR FISCAL YEAR 1989
(Outlays in millions of dollars)

	Defense Programs	Nondefense Programs
Total Required Outlay Reductions	8,506	8,506
Savings from Eliminating Automatic Spending Increases	0	48
Savings from the Application of Special Rules:		
Guaranteed student loans	0	26
Foster care and adoption assistance	0	4
Medicare	0	1,457
Other health programs	0	188
Remaining Reductions Required	8,506	6,783
Estimated Sequestration Outlay Base [a]	115,454	115,451
Uniform Reduction Percentage	7.4	5.9

a. Excludes $75,815 million in estimated military personnel outlays that have been exempted from sequestration by the President. Includes $6,466 million in estimated 1990 outlays for the Commodity Credit Corporation that can be affected by a 1989 sequestration (see discussion of special rule for the CCC). Also includes an estimated $2,492 million in outlays from the spending of offsetting collections.

A number of nondefense programs are exempted by law from the sequestration process, and are listed in Table 7. The largest are Social Security benefits, net interest payments, certain low-income programs, most federal retirement and disability benefits, veterans compensation and pensions, and regular state unemployment insurance benefits. Outlays from appropriations for nondefense programs made in previous years are also not subject to sequestration. The 1989 outlays associated with sequesterable budgetary resources for nondefense programs subject to the uniform percentage reduction are estimated to be $115.5 billion. The estimated uniform percentage to be applied to these remaining nondefense programs is 5.9 percent.

The calculations in this report generally assume that all nonexempt budgetary resources can be sequestered in order to produce outlay savings, including entitlement programs and other mandatory spending programs where the spending authority is not controlled through the annual appropriation process. An exception is made for the administrative expenses of the Postal Service. While more than $1 billion of budgetary resources of the Postal Service are sequesterable under CBO estimates, no outlay savings are attributed by CBO to sequestration because the Administration appears to have no mechanism for enforcing a sequestration order on the Postal Service. The Congress is currently considering legislation (S. 2449) which would remove the Postal Service from federal budget totals and exempt it from sequestration calculations.

AUTOMATIC SPENDING INCREASES

The three programs with automatic spending increases currently subject to sequestration by the Balanced Budget Act, as amended, are listed in Table 8. The scheduled percentage increases are shown as well as the amount of estimated outlay savings to be gained by eliminating these increases.

SPECIAL RULES

The Balanced Budget Act provides special rules for the sequestration of budgetary resources for certain federal programs. This section describes these special rules and their application to the 1989 sequestration calculations. The estimated outlay

Table 7. COMPOSITION OF BASELINE OUTLAYS FOR FISCAL YEAR 1989

Category	Estimate (In billions of dollars)	Percentage of Total
Defense Programs [a]		
Subject to across-the-board reduction	115.5	10.2
Exempt from sequestration [b]	184.0	16.2
Subtotal, defense programs	299.5	26.4
Nondefense Programs		
Subject to sequestration:		
Certain programs with automatic spending increases [c]	1.5	0.1
Certain special rule programs [d]	112.3	9.9
Subject to across-the-board reduction [e]	109.0	9.6
Subtotal	222.8	19.7
Exempt from sequestration:		
Social Security	231.8	20.5
Federal Retirement, disability, and workers compensation	59.0	5.2
Earned income tax credit	3.8	0.3
Low-income programs [f]	77.7	6.9
Veterans compensation and pensions	14.8	1.3
State unemployment benefits	14.5	1.3
Offsetting receipts	-60.9	-5.4
Net interest payments	163.3	14.4
Other	106.6	9.4
Subtotal	610.5	53.9
Subtotal, nondefense programs	833.3	73.6
Total	1,132.8	100.0

a. Budget function 050, excluding Federal Emergency Management Agency programs.
b. Outlays from obligated balances plus military personnel.
c. National Wool Act, special milk program, and vocational rehabilitation program.
d. Guaranteed student loans, foster care and adoption assistance, and Medicare, veterans medical care, and other health programs.
e. Excludes fiscal year 1990 outlays for the Commodity Credit Corporation.
f. Family Support payments, child nutrition, Medicaid, Food Stamps, Supplemental Security Income, the Women, Infants, and Children's program, Commodity Supplemental Food program, and Nutrition Assistance to Puerto Rico.

savings derived from the first four rules are shown separately in Table 6. Any outlay savings resulting from the remaining special rules are included in the amount to be obtained from the uniform percentage reductions.

Guaranteed Student Loan Program

The Balanced Budget Act requires two changes in the guaranteed student loan (GSL) program to occur automatically under sequestration. First, the statutory factor for calculating the quarterly special allowance payments to lenders will be reduced by the lesser of 0.40 percentage point or the amount by which the statutory factor exceeds 3 percent for the first four quarters after the loan is made. Under the current program, the reduction will be 0.25 percentage point. Second, a student's origination fee will increase by 0.50 percentage point. In both cases, sequestration affects only GSL loans disbursed during the applicable fiscal year, but after the order is issued. For 1989, these changes are estimated by CBO to reduce outlays by $26 million.

Table 8. AUTOMATIC SPENDING INCREASES FOR FISCAL YEAR 1989 SUBJECT TO SEQUESTRATION

Program	Scheduled Increase (In percent)	Outlay Reduction (In millions of dollars)
National Wool Act	a	a
Special Milk Programs [b]	2.6	0.1
Vocational Rehabilitation [c]	4.5	47.8
Total		47.9

a. No 1989 payment increase is expected for this program, based on declining wool support price levels in marketing year 1988.
b. Benefits are indexed to the producer price index for fresh processed milk.
c. This program is indexed to the change in the consumer price index (CPI-U) from October of the previous year.

Foster Care and Adoption Assistance Programs

The Balanced Budget Act limits the amount to be sequestered in the foster care and adoption assistance programs to increases in foster care maintenance payment rates or adoption assistance payment rates taking effect during the current fiscal year. Moreover, the amounts are limited to the extent that the reduction can be made by reducing federal matching payments by a uniform percentage across states. The increases in payment rates for these programs are made by the states and localities. Any increases planned by the states for fiscal year 1989 were included in the CBO calculations for sequestration reductions. The estimated outlay savings in 1989 from sequestration are $4 million.

Medicare

The sequestration reductions in the Medicare program are to be achieved by reducing payment amounts for covered services. No changes in coinsurance or deductible amounts are to be made, and covered services are unaffected under a sequestration order. Under such an order, each payment amount for services provided during the fiscal year would be reduced by a maximum of 2 percent relative to whatever level of payment would otherwise be made under Medicare laws and regulations. According to CBO estimates, the outlay savings to be achieved in 1989 by applying this special rule are $1.5 billion.

Veterans Medical Care and Other Health Programs

The Balanced Budget Act limits reductions in budget authority for the nonadministrative expenditures for veterans medical care, community and migrant health centers, and Indian health services and facilities to 2 percent in 1989 and any subsequent year. The estimated outlay savings to be achieved in 1989 by applying this special rule to these programs are $188 million.

Child Support Enforcement Program

In the child support enforcement (CSE) program, the Balanced Budget Act provides that sequestration of entitlement payments to states, including grants to states for interstate projects from the Family Support Administration's program administration account, is to be accomplished by reducing the federal matching rates for state administrative expenses. For 1989, the federal matching rate on most expenditures under CBO estimates would be reduced from 68 percent to 62.9 percent, and the rate for computer-related expenditures would be reduced from 90 percent to 83.3 percent. These reductions in the matching rates are necessary to achieve the same 5.9 percent reduction applied to other nondefense programs.

If states increase their share of CSE spending to maintain total program spending at the expected 1989 level, this reduction in the federal matching rate will lower federal outlays by the same percentage as other nondefense programs. If states do not increase their 1989 budgeted amounts to compensate for lower matching rates, however, the lower federal matching rate would result in a larger percentage reduction in federal spending than the act requires. The estimated outlay savings that are to be achieved in 1989 by applying this special rule are $69 million.

Unemployment Compensation Programs

The Balanced Budget Act provides that the following items are not to be sequestered: regular state unemployment benefits, the state share of extended unemployment benefits, unemployment benefits paid to former federal employees and former members of the armed services, and loans and advances to the state and federal unemployment accounts. The federal share of extended benefits, unemployment insurance for railroad employees, other federally paid benefits, and state and federal administrative expenses are sequesterable.

Both the federal and state shares of extended unemployment benefits are paid from the Unemployment Trust Fund--the federal share from a federal account and the state share from each state's account. State law sets the amount of each weekly extended benefit. The Balanced Budget Act permits any state to reduce the weekly extended benefit amount by a percentage equal to the uniform reduction in the federal share. If states do not change their laws to provide for such a reduction, the weekly benefit payments will not be reduced, the state share will increase by the amount of the decrease in the federal share, and total budget outlays that include both federal and state benefits will not be changed by the sequestration. No states are currently paying extended benefits.

Commodity Credit Corporation

Under the Balanced Budget Act, payments and loan eligibility under any contract entered into by the Commodity Credit Corporation (CCC) after a sequestration order has been issued for a fiscal year are subject to a percentage reduction. The act requires that reductions for all farm commodities supported by the CCC be made in a uniform manner, including all noncontract programs, projects, and activities within the CCC's jurisdiction. The act further stipulates that outlay reductions in the post-sequestration year that are the result of contract adjustments in the sequestration year should be credited to the overall outlay reduction required in the sequestration year. The outlay savings to be achieved by applying this special rule are estimated by CBO to be $0.6 billion in 1989, and $0.4 billion in 1990. The actual amount of savings realized in each year will depend upon how the sequestration is carried out for the various CCC programs. In accordance with the act, however, all $1.0 billion of these estimated outlay savings are credited toward the $8.5 billion reduction required for 1989 in nondefense spending.

Federal Pay

The Balanced Budget Act provides that rates of pay for civilian employees (and rates of basic pay, basic subsistence allowances, and basic quarter allowances for members of the uniformed services), or any scheduled pay increases, may not be reduced following a sequestration order. Budgetary resources available for federal pay, however, will be subject to sequestration as part of the reduction of administrative expenses, which include travel, printing, supplies, and other services. The total amount of government-wide savings to be achieved in 1989 from employee compensation cannot be estimated because program managers are expected to be urged not to resort to personnel furloughs and reductions in force until other administrative expenses are reduced as much as possible.

SEQUESTRATION REDUCTIONS

A summary of CBO's calculations for the sequestration of budgetary resources and the estimated outlay savings for 1989 is provided for national defense programs in Table 9 and for nondefense programs by function in Table 10. The tables show CBO's budget baseline estimates for new budget authority and outlays, reductions in outlays caused by sequestration, and post-sequestration spending levels. In most instances, additional outlay savings would be gained in 1990 and later years as a result of the cancellation of 1989 budget authority. The 1990 savings have not been estimated for this report. A detailed list of the sequestration base and reductions by agency and budget account by type of spending authority is provided as an appendix to this report.

The CBO sequestration calculations and post-sequestration spending levels are advisory only. OMB will determine whether a sequestration is triggered, and, if so, the actual sequestration amounts. OMB's initial determination will be issued on August 25.

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TABLE 9. DEFENSE PROGRAM SEQUESTRATIONS FOR FISCAL YEAR 1989
(In billions of dollars)

Budget Function 050	August Baseline [a]	CBO Estimated Sequestration [b]	Post-Sequestration
Department of Defense-Military:			
Military personnel			
Budget authority	79.4	[c]	79.4
Outlays	79.3	[c]	79.3
Operation and maintenance			
Budget authority	84.3	6.2	78.1
Outlays	85.1	5.0	80.1
Procurement			
Budget authority	87.9	6.5	81.4
Outlays	81.7	1.2	80.5
Research, development, test, and evaluation			
Budget authority	38.6	2.9	35.7
Outlays	36.0	1.6	34.3
Military construction and other			
Budget authority	9.2	0.7	8.5
Outlays	9.3	0.4	9.0
Subtotal, DoD--military			
Budget authority	299.5	16.3	283.2
Outlays	291.3	8.1	283.2
Atomic Energy Defense Activities			
Budget authority	8.1	0.6	7.5
Outlays	7.9	0.4	7.5
Other Defense-related Activities [d]			
Budget authority	0.5	[e]	0.5
Outlays	0.5	[e]	0.5
Total			
Budget authority	308.1	16.9	291.2
Outlays	299.8	8.6	291.3

a. Does not include an estimated $39.9 billion in unobligated balances subject to sequestration.

b. Does not include $3.0 billion in unobligated balances that would be sequestered.

c. The President has exempted the military personnel accounts from sequestration in 1989.

d. Includes the function 050 portion of Federal Emergency Management Agency budget accounts, which are reduced at the same rate as nondefense programs.

e. $50 million or less.

TABLE 10. NONDEFENSE PROGRAM SEQUESTRATIONS FOR FISCAL YEAR 1989 BY FUNCTION (In billions of dollars)

Budget Function		August Budget Baseline	CBO Estimated Sequestration	Post-Sequestration
150	International Affairs			
	Budget authority	17.0	1.1	15.9
	Outlays	16.6	0.6	16.0
250	General Science, Space, and Technology			
	Budget authority	11.3	0.7	10.6
	Outlays	11.6	0.4	11.2
270	Energy			
	Budget authority	5.6	0.4	5.2
	Outlays	4.8	0.2	4.6
300	Natural Resources and Environment			
	Budget authority	16.0	1.1	14.9
	Outlays	16.0	0.7	15.3
350	Agriculture [a]			
	Budget authority	23.8	0.7	23.1
	Outlays	20.8	0.8	20.0
370	Commerce and Housing Credit			
	Budget authority	16.7	0.2	16.4
	Outlays	13.8	0.2	13.6
400	Transportation			
	Budget authority	28.6	1.7	27.0
	Outlays	28.1	0.6	27.5
450	Community and Regional Development			
	Budget authority	7.5	0.3	7.1
	Outlays	6.3	0.1	6.2
500	Education, Training, Employment, and Social Services			
	Budget authority	37.5	1.8	35.7
	Outlays	36.5	0.7	35.8
550	Health			
	Budget authority	50.0	0.9	49.1
	Outlays	49.2	0.4	48.8
570	Medicare			
	Budget authority	106.4	0	106.4
	Outlays	86.4	1.6	84.9
600	Income Security			
	Budget authority	177.9	0.9	177.0
	Outlays	137.3	0.4	136.8
650	Social Security			
	Budget authority	285.0	0	285.0
	Outlays	233.3	0.1	233.2
700	Veterans Benefits and Services			
	Budget authority	29.3	0.4	28.9
	Outlays	28.9	0.3	28.6
750	Administration of Justice			
	Budget authority	8.8	0.6	8.3
	Outlays	8.7	0.5	8.2
800	General Government			
	Budget authority	9.9	0.6	9.3
	Outlays	9.5	0.5	9.0
900	Net Interest [b]			
	Budget authority	163.3	0.7	162.6
	Outlays	163.3	0.7	162.6
950	Undistributed Offsetting Receipts			
	Budget authority	-38.2	0	-38.2
	Outlays	-38.2	0	-38.2
	Total			
	Budget authority	956.5	12.1	944.3
	Outlays	833.0	8.9	824.1

a. Excludes $0.4 billion in estimated 1990 outlay savings for programs of the Commodity Credit Corporation that are credited toward the 1989 sequestration (see discussion of special rule for the CCC).

b. Includes $0.7 billion savings in debt service costs as result of 1989 outlay reductions through sequestration.

APPENDIX

SEQUESTRATION REDUCTIONS

BY AGENCY AND BUDGET ACCOUNT

(Fiscal year 1989, in thousands of dollars)

Percentages used:

Defense	7.4 percent
Nondefense	5.9 percent

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Legislative Branch			
Senate			
Mileage of the Vice President and Senators			
00 0101 0 1 801	Budget Authority	63	4
	Outlays	50	3
Expense allowances of the Vice President, President Pro Tempore, Majorit			
00 0107 0 1 801	Budget Authority	58	3
	Outlays	58	3
Representation allowances for the Majority and Minority Leaders			
00 0108 0 1 801	Budget Authority	21	1
	Outlays	21	1
Salaries, officers and employees			
00 0110 0 1 801	Budget Authority	208,950	12,328
	Outlays	196,413	11,588
Miscellaneous items			
00 0123 0 1 801	Budget Authority	10,845	640
	Outlays	10,845	640
Secretary of the Senate			
00 0126 0 1 801	Budget Authority	709	42
	Outlays	659	39
Sergeant at Arms and Doorkeeper of the Senate			
00 0127 0 1 801	Budget Authority	70,878	4,182
	Outlays	63,790	3,764
Inquiries and investigations			
00 0128 0 1 801	Budget Authority	60,876	3,592
	Outlays	57,832	3,412
Expenses of United States Senate Caucus on International Narcotics Contr			
00 0129 0 1 801	Budget Authority	346	20
	Outlays	312	18
Stationery (revolving fund)			
00 0140 0 1 801	Budget Authority	14	1
	Outlays	14	1
Office of Senate Legal Counsel			
00 0171 0 1 801	Budget Authority	674	40
	Outlays	506	30
Expense allowances of the Secretary of the Senate, Sergeant at Arms, and			
00 0172 0 1 801	Budget Authority	13	1
	Outlays	8	0
Senate policy committees			
00 0182 0 1 801	Budget Authority	2,346	138
	Outlays	1,994	118
Office of the Legislative Counsel of the Senate			
00 0185 0 1 801	Budget Authority	1,879	111
	Outlays	1,785	105
House of Representatives			
Mileage of Members			
00 0208 0 1 801	Budget Authority	219	13
	Outlays	110	6
Salaries and expenses			
00 0400 0 1 801	Budget Authority	544,372	32,118
	Outlays	512,798	30,255
Congressional use of foreign currency, House of Representatives			
00 0488 0 1 801	401(C) Authority	3,360	198
	Outlays	3,360	198
Joint Items			
Capitol Guide Service			
00 0170 0 1 801	Budget Authority	1,211	71
	Outlays	1,090	64
Joint Committee on Printing			
00 0180 0 1 801	Budget Authority	1,104	65
	Outlays	995	59
Joint Economic Committee			
00 0181 0 1 801	Budget Authority	3,386	200
	Outlays	3,217	190
Office of the Attending Physician			
00 0425 0 1 801	Budget Authority	1,556	92
	Outlays	624	37
Joint Committee on Taxation			
00 0460 0 1 801	Budget Authority	4,469	264
	Outlays	4,246	251
General expenses, Capitol police			
00 0476 0 1 801	Budget Authority	1,807	107
	Outlays	1,534	91
Statements of appropriations			
00 0499 0 1 801	Budget Authority	20	1

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Official mail costs			
00 0825 0 1 801	Budget Authority	85,614	5,051
	Outlays	85,614	5,051
Congressional Budget Office			
Salaries and expenses			
08 0100 0 1 801	Budget Authority	18,923	1,116
	Outlays	17,031	1,005
Architect of the Capitol			
Office of the Architect of the Capitol: Salaries			
01 0100 0 1 801	Budget Authority	6,310	372
	Outlays	5,748	339
Contingent expenses			
01 0102 0 1 801	Budget Authority	50	3
	Outlays	50	3
Capitol buildings			
01 0105 0 1 801	Budget Authority	13,530	798
	Outlays	10,892	643
Capitol grounds			
01 0108 0 1 801	Budget Authority	3,609	213
	Outlays	3,003	177
Senate office buildings			
01 0123 0 1 801	Budget Authority	24,638	1,454
	Outlays	18,134	1,070
House office buildings			
01 0127 0 1 801	Budget Authority	32,308	1,906
	Outlays	22,971	1,355
Capitol Power Plant			
01 0133 0 1 801	Budget Authority	25,701	1,516
	401(C) Authority - Off. Coll.	135	8
	Outlays	22,238	1,312
Structural and mechanical care, Library buildings and grounds			
01 0155 0 1 801	Budget Authority	7,148	422
	Outlays	5,747	339
Library of Congress			
Salaries and expenses			
03 0101 0 1 503	Budget Authority	146,880	8,666
	401(C) Authority - Off. Coll.	4,828	285
	Outlays	124,401	7,340
Copyright Office: Salaries and expenses			
03 0102 0 1 376	Budget Authority	11,809	697
	401(C) Authority - Off. Coll.	6,992	413
	Outlays	17,797	1,050
Congressional Research Service: Salaries and expenses			
03 0127 0 1 801	Budget Authority	45,631	2,692
	Outlays	41,250	2,434
Books for the blind and physically handicapped: Salaries and expenses			
03 0141 0 1 503	Budget Authority	37,801	2,230
	Outlays	18,901	1,115
Furniture and furnishings			
03 0146 0 1 503	Budget Authority	6,067	358
	Outlays	3,434	203
Gift and trust fund accounts			
03 9971 0 7 503	401(C) Other - incl. ob. limit	288	17
	Outlays	288	17
Government Printing Office			
Office of Superintendent of Documents: Salaries and expenses			
04 0201 0 1 808	Budget Authority	20,051	1,183
	Outlays	12,452	735
Congressional printing and binding			
04 0203 0 1 801	Budget Authority	73,314	4,326
	Outlays	58,651	3,460
Government Printing Office revolving fund			
04 4505 0 4 808	401(C) Authority - Off. Coll.	29,000	1,711
	Outlays	29,000	1,711
General Accounting Office			
Salaries and expenses			
05 0107 0 1 801	Budget Authority	348,944	20,588
	Outlays	321,028	18,941
United States Tax Court			
Salaries and expenses			
23 0100 0 1 752	Budget Authority	28,958	1,709
	Outlays	23,166	1,367
Tax courts independent counsel, U.S. Tax Court			
23 5023 0 2 752	401(C) Authority	100	6
	Outlays	100	6

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Other Legislative Branch Agencies			
Commission on Security and Cooperation in Europe: Salaries and expenses			
09 0110 0 1 801	Budget Authority	743	44
	Outlays	668	39
Botanic Garden: Salaries and expenses			
09 0200 0 1 801	Budget Authority	2,361	139
	Outlays	2,125	125
Copyright Royalty Tribunal: Salaries and expenses			
09 0310 0 1 376	Budget Authority	136	8
	Outlays	121	7
Biomedical Ethics: Salaries and expenses			
09 0400 0 1 801	Budget Authority	106	6
	Outlays	106	6
International conferences and contingencies: House and Senate expenses			
09 0500 0 1 801	401(C) Authority	290	17
	Outlays	290	17
Office of Technology Assessment: Salaries and expenses			
09 0700 0 1 801	Budget Authority	17,849	1,053
	Outlays	13,387	790
Payment to the Congressional Award Board			
09 0900 0 1 801	Budget Authority	197	12
	Outlays	197	12
TOTAL FOR Legislative Branch			
	Budget Authority	1,874,494	110,596
	401(C) Authority	3,750	221
	401(C) Authority - Off. Coll.	40,955	2,417
	401(C) Other - incl. ob. limit	288	17
	Outlays	1,721,051	101,542
The Judiciary			
Supreme Court of the United States			
Salaries and expenses			
10 0100 0 1 752	Budget Authority	15,028	887
	Outlays	11,797	696
Care of the building and grounds			
10 0103 0 1 752	Budget Authority	2,216	131
	Outlays	2,039	120
United States Court of Appeals for the Federal Circuit			
Salaries and expenses			
10 0510 0 1 752	Budget Authority	6,551	387
	Outlays	5,902	348
United States Court of International Trade			
Salaries and expenses			
10 0400 0 1 752	Budget Authority	7,272	429
	Outlays	6,908	408
Courts of Appeals, District Courts, and other Judicial Services			
Salaries and expenses			
10 0920 0 1 752	Budget Authority	1,039,019	61,302
	Outlays	960,054	56,643
Defender services			
10 0923 0 1 752	Budget Authority	89,108	5,257
	Outlays	53,465	3,154
Fees of jurors and commissioners			
10 0925 0 1 752	Budget Authority	45,514	2,685
	Outlays	42,328	2,497
Court security			
10 0930 0 1 752	Budget Authority	42,581	2,512
	Outlays	30,445	1,796
Administrative Office of the United States Courts			
Salaries and expenses			
10 0927 0 1 752	Budget Authority	32,943	1,944
	Outlays	29,220	1,724
Federal Judicial Center			
Salaries and expenses			
10 0928 0 1 752	Budget Authority	11,094	655
	Outlays	8,842	522
TOTAL FOR The Judiciary			
	Budget Authority	1,291,326	76,189
	Outlays	1,151,000	67,908
Executive Office of the President			
The White House Office			
Salaries and expenses			
11 0110 0 1 802	Budget Authority	27,894	1,646
	Outlays	25,105	1,481

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Executive Residence at the White House			
Operating expenses			
11 0210 0 1 802	Budget Authority	7,826	462
	401(C) Authority - Off. Coll.	729	43
	Outlays	8,164	482
Official Residence of the Vice President			
Operating expenses			
11 0211 0 1 802	Budget Authority	270	16
	Outlays	238	14
Special Assistance to the President			
Salaries and expenses			
11 1454 0 1 802	Budget Authority	2,278	134
	Outlays	2,005	118
Council of Economic Advisers			
Salaries and expenses			
11 1900 0 1 802	Budget Authority	2,644	156
	Outlays	2,300	136
Council on Environmental Quality and Office of Environmental Quality			
Council on Environmental Quality and Office of Environmental Quality			
11 1453 0 1 802	Budget Authority	874	52
	Outlays	830	49
Office of Policy Development			
Salaries and expenses			
11 2200 0 1 802	Budget Authority	3,171	187
	Outlays	2,759	163
National Security Council			
Salaries and expenses			
11 2000 0 1 802	Budget Authority	5,278	311
	Outlays	4,222	249
National Critical Materials Council			
Salaries and expenses			
11 0111 0 1 802	Budget Authority	369	22
	Outlays	336	20
Office of Administration			
Salaries and expenses			
11 0038 0 1 802	Budget Authority	16,811	992
	Outlays	12,104	714
Office of Management and Budget			
Office of Federal Procurement Policy: Salaries and expenses			
11 0201 0 1 802	Budget Authority	2,434	144
	Outlays	2,193	129
Salaries and expenses			
11 0300 0 1 802	Budget Authority	41,211	2,431
	Outlays	36,637	2,162
Office of Science and Technology Policy			
Salaries and expenses			
11 2600 0 1 802	Budget Authority	1,990	117
	Outlays	1,194	70
Office of the United States Trade Representative			
Salaries and expenses			
11 0400 0 1 802	Budget Authority	16,053	947
	Outlays	13,645	805
White House Conference for a Drug Free America			
Salaries and expenses			
11 0212 0 1 551	Budget Authority	2,626	155
	Outlays	2,274	134
TOTAL FOR Executive Office of the President			
	Budget Authority	131,729	7,772
	401(C) Authority - Off. Coll.	729	43
	Outlays	114,006	6,726
Funds Appropriated to the President			
Unanticipated Needs			
Unanticipated needs			
11 0037 0 1 802	Budget Authority	1,045	62
	Outlays	1,005	59
International Security Assistance			
Peacekeeping operations			
11 1032 0 1 152	Budget Authority	33,020	1,948
	Outlays	22,784	1,344
Economic support fund			
11 1037 0 1 152	Budget Authority	3,334,729	196,750
	Outlays	1,864,114	109,982
Military assistance			
11 1080 0 1 152	Budget Authority	730,652	43,108
	Outlays	189,970	11,208

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
International military education and training			
11 1081 0 1 152	Budget Authority	49,391	2,914
	Outlays	22,226	1,311
Foreign military sales credit			
11 1082 0 1 152	Budget Authority	4,219,058	248,924
	Direct Loan Limitation	4,219,058	248,924
	Guaranteed Loan Limitation	4,404,400	259,860
	Outlays	1,895,377	111,827
Multilateral Assistance			
Contribution to the Inter-American Development Bank			
11 0072 0 1 151	Budget Authority	61,098	3,605
	Outlays	1,894	112
Contribution to the International Development Association			
11 0073 0 1 151	Budget Authority	953,430	56,252
Contribution to the Asian Development Bank			
11 0076 0 1 151	Budget Authority	44,865	2,647
	Outlays	6,276	370
Contribution to the International Bank for Reconstruction and Developmen			
11 0077 0 1 151	Budget Authority	41,863	2,470
	Outlays	4,186	247
Contribution to the International Finance Corporation			
11 0078 0 1 151	Budget Authority	21,153	1,248
	Outlays	21,153	1,248
Contribution to the African Development Fund			
11 0079 0 1 151	Budget Authority	78,150	4,611
Contribution to the African Development Bank			
11 0082 0 1 151	Budget Authority	9,377	553
	Outlays	9,377	553
Contribution to Multilateral Investment Guarantee Agency			
11 0084 0 1 151	Budget Authority	46,268	2,730
	Outlays	23,134	1,365
International organizations and programs			
11 1005 0 1 151	Budget Authority	254,923	15,040
	Outlays	167,747	9,897
Agency for International Development			
Operating expenses Agency for International Development			
11 1000 0 1 151	Budget Authority	428,057	25,255
	Outlays	321,043	18,942
Operating expenses of the Agency for International Development Office of			
11 1007 0 1 151	Budget Authority	25,233	1,489
	Outlays	18,925	1,117
American schools and hospitals abroad			
11 1013 0 1 151	Budget Authority	41,680	2,459
	Outlays	10,628	627
Sub-Saharan Africa, development assistance			
11 1014 0 1 151	Budget Authority	573,100	33,813
	Outlays	70,491	4,159
Functional development assistance program			
11 1021 0 1 151	Budget Authority	1,201,449	70,886
	Outlays	147,779	8,719
International disaster assistance			
11 1035 0 1 151	Budget Authority	29,176	1,721
	Outlays	7,236	427
Housing and other credit guaranty programs			
72 4340 0 3 151	401(C) Authority - Off. Coll.	6,760	399
	Guaranteed Loan Limitation	130,250	7,685
	Outlays	6,605	390
Private sector revolving fund			
72 4341 0 3 151	Budget Authority	7,294	430
	Direct Loan Limitation	12,504	738
	Outlays	1,206	71
Trade and Development Program			
Trade and development program			
11 1001 0 1 151	Budget Authority	26,077	1,539
	Outlays	5,398	318
Peace Corps			
Peace Corps			
11 0100 0 1 151	Budget Authority	153,777	9,073
	401(C) Authority - Off. Coll.	200	12
	Outlays	126,415	7,459
Overseas Private Investment Corporation			
Overseas Private Investment Corporation			
71 4030 0 3 151	401(C) Authority - Off. Coll.	11,748	693
	Direct Loan Limitation	23,966	1,414
	Guaranteed Loan Limitation	208,400	12,296
	Outlays	14,097	831

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Inter-American Foundation			
Inter-American Foundation			
11 4031 0 3 151	Budget Authority	13,575	801
	401(C) Authority - Off. Coll.	9,083	536
	Outlays	9,063	534
African Development Foundation			
African Development Foundation			
11 0700 0 1 151	Budget Authority	7,321	432
	Outlays	4,393	259
Military Sales Programs			
Special defense acquisition fund			
11 4116 0 3 155	Obligation Limitation	246,813	14,562
	Outlays	2,468	146
Foreign military sales trust fund			
11 8242 0 7 155	401(C) Authority - Off. Coll.	340,000	20,060
	Outlays	316,200	18,656
Special Assistance for Central America			
Assistance to the Nicaraguan democratic resistance			
11 1090 0 1 054	Budget Authority	7,427	550
	Outlays	7,427	550
TOTAL FOR Funds Appropriated to the President			
	Budget Authority	12,393,188	731,310
	401(C) Authority - Off. Coll.	367,791	21,700
	Direct Loan Limitation	4,255,528	251,076
	Guaranteed Loan Limitation	4,743,050	279,841
	Obligation Limitation	246,813	14,562
	Outlays	5,298,617	312,728
Department of Agriculture			
Office of the Secretary			
Office of the Secretary			
12 0115 0 1 352	Budget Authority	6,044	356
	Outlays	5,742	339
Departmental Administration			
Rental payments and building operations			
12 0117 0 1 352	Budget Authority	72,663	4,287
	Outlays	68,013	4,013
Advisory committees			
12 0118 0 1 352	Budget Authority	1,373	81
	Outlays	898	53
Departmental administration			
12 0120 0 1 352	Budget Authority	26,485	1,563
	Outlays	23,519	1,388
Hazardous waste management			
12 0500 0 1 304	Budget Authority	2,084	123
	Outlays	1,042	61
Working capital fund			
12 4609 0 4 352	Budget Authority	5,988	353
	Outlays	5,910	349
Office of Governmental and Public Affairs			
Office of Governmental and Public Affairs			
12 0130 0 1 352	Budget Authority	9,172	541
	Outlays	7,246	428
Office of the Inspector General			
Office of the Inspector General			
12 0900 0 1 352	Budget Authority	51,584	3,043
	Outlays	44,156	2,605
Office of the General Counsel			
Office of the General Counsel			
12 2300 0 1 352	Budget Authority	19,869	1,172
	Outlays	19,690	1,162
Agricultural Research Service			
Agricultural Research Service			
12 1400 0 1 352	Budget Authority	569,672	33,611
	401(C) Authority - Off. Coll.	3,350	198
	Outlays	458,518	27,053
Buildings and facilities			
12 1401 0 1 352	Budget Authority	60,243	3,554
	Outlays	11,627	686
Cooperative State Research Service			
Cooperative State Research Service			
12 1500 0 1 352	Budget Authority	319,655	18,859
	401(C) Authority	2,600	153
	Outlays	209,739	12,374

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Extension Service			
Extension Service			
12 0502 0 1 352	Budget Authority	373,178	22,018
	401(C) Authority - Off. Coll.	495	29
	Outlays	294,559	17,379
National Agricultural Library			
National Agricultural Library			
12 0300 0 1 352	Budget Authority	12,837	757
	Outlays	9,307	549
National Agricultural Statistics Service			
Salaries and expenses			
12 1801 0 1 352	Budget Authority	64,462	3,803
	401(C) Authority - Off. Coll.	1,007	59
	Outlays	53,479	3,155
Economic Research Service			
Salaries and expenses			
12 1701 0 1 352	Budget Authority	50,943	3,006
	Outlays	42,843	2,528
World Agricultural Outlook Board			
World agricultural outlook board			
12 2100 0 1 352	Budget Authority	1,831	108
	Outlays	1,395	82
Foreign Agricultural Service			
Foreign Agricultural Service			
12 2900 0 1 352	Budget Authority	96,774	5,710
	Outlays	53,322	3,146
Office of International Cooperation and Development			
Scientific activities overseas (foreign currency program)			
12 1404 0 1 352	Budget Authority	1,563	92
	Outlays	782	46
Salaries and expenses			
12 3200 0 1 352	Budget Authority	5,570	329
	Outlays	4,573	270
Foreign Assistance Programs			
Expenses, Public Law 480, foreign assistance programs, Agriculture			
12 2274 0 1 151	Budget Authority	1,160,444	68,466
	Direct Loan Limitation	809,842	47,781
	Obligation Limitation	1,544,244	91,110
	Outlays	1,405,262	82,910
Agricultural Stabilization and Conservation Service			
Salaries and expenses			
12 3300 0 1 351	Budget Authority	47,335	2,793
	Outlays	47,335	2,793
Dairy indemnity program			
12 3314 0 1 351	Budget Authority	95	6
	Outlays	95	6
Agricultural conservation program			
12 3315 0 1 302	Budget Authority	184,366	10,878
	Outlays	84,808	5,004
Emergency conservation program			
12 3316 0 1 453	Budget Authority	1,042	61
	Outlays	469	28
Colorado river basin salinity control program			
12 3318 0 1 304	Budget Authority	5,110	301
	Outlays	2,555	151
Conservation reserve program			
12 3319 0 1 302	Budget Authority	1,129,190	66,622
Water Bank program			
12 3320 0 1 302	Budget Authority	8,723	515
	Outlays	1,300	77
Forestry incentives program			
12 3336 0 1 302	Budget Authority	12,390	731
	Outlays	4,783	282
Federal Crop Insurance Corporation			
Administrative and operating expenses			
12 2707 0 1 351	Budget Authority	209,038	12,333
	Outlays	122,078	7,203
Commodity Credit Corporation			
Temporary emergency food assistance program			
12 3635 0 1 351	Budget Authority	52,100	3,074
	Outlays	35,636	2,103
Commodity Credit Corporation Fund			
12 4336 0 3 351	401(C) Authority	16,443,000	970,137
	Direct Loan Limitation	7,671,381	452,611
	Guaranteed Loan Limitation	5,731,000	338,129
	Outlays	16,443,000	970,137

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Rural Electrification Administration			
Salaries and expenses			
12 3100 0 1 271	Budget Authority	32,685	1,928
	Outlays	29,482	1,739
Reimbursement to the Rural electrification and telephone revolving fund			
12 3101 0 1 271	Budget Authority	341,437	20,145
Purchase of Rural Telephone Bank capital stock			
12 3102 0 1 452	Budget Authority	29,916	1,765
	Outlays	29,916	1,765
Rural electrification and telephone revolving fund			
12 4230 0 3 271	Direct Loan Limitation	1,293,864	76,338
	Direct Loan Floor	897,475	52,951
	Guaranteed Loan Limitation	2,188,841	129,142
	Guaranteed Loan Floor	970,398	57,253
	Outlays	89,748	5,295
Rural telephone bank			
12 4231 0 3 452	Direct Loan Limitation	219,383	12,944
	Direct Loan Floor	184,481	10,884
	Outlays	7,661	452
Farmers Home Administration			
Salaries and expenses			
12 2001 0 1 452	Budget Authority	431,741	25,473
	Outlays	392,884	23,180
Rural housing for domestic farm labor			
12 2004 0 1 604	Budget Authority	9,913	585
	Outlays	397	23
Mutual and self-help housing			
12 2006 0 1 604	Budget Authority	8,336	492
	Outlays	667	39
Very low income housing repair grants			
12 2064 0 1 604	Budget Authority	13,025	768
	Outlays	12,374	730
Rural development grant program			
12 2065 0 1 452	Budget Authority	6,773	400
	Outlays	6,434	380
Rural water and waste disposal grants			
12 2066 0 1 452	Budget Authority	113,990	6,725
	Outlays	2,280	135
Rural community fire protection grants			
12 2067 0 1 452	Budget Authority	3,221	190
	Outlays	1,449	85
Rural housing preservation grants			
12 2070 0 1 604	Budget Authority	19,944	1,177
	Outlays	1,197	71
Compensation for construction defects			
12 2071 0 1 371	Budget Authority	743	44
	Outlays	743	44
Agricultural credit insurance fund			
12 4140 0 3 351	401(C) Authority - Off. Coll.	115,000	6,785
	Direct Loan Limitation	1,693,413	99,911
	Guaranteed Loan Limitation	2,910,306	171,708
	Outlays	1,722,742	101,642
Rural housing insurance fund			
12 4141 0 3 371	401(C) Authority - Off. Coll.	17,000	1,003
	Direct Loan Limitation	1,922,480	113,426
	Obligation Limitation	286,873	16,926
	Outlays	913,850	53,917
Rural development insurance fund			
12 4155 0 3 452	401(C) Authority - Off. Coll.	2,000	118
	Direct Loan Limitation	443,975	26,195
	Guaranteed Loan Limitation	99,719	5,883
	Outlays	16,764	989
Self-help housing land development fund			
12 4222 0 3 371	Direct Loan Limitation	521	31
	Outlays	340	20
Rural development loan fund			
12 4233 0 3 452	Direct Loan Limitation	14,588	861
	Outlays	1,479	87
Soil Conservation Service			
Conservation operations			
12 1000 0 1 302	Budget Authority	469,490	27,700
	401(C) Authority - Off. Coll.	8,681	512
	Outlays	441,551	26,051
Resource conservation and development			
12 1010 0 1 302	Budget Authority	26,452	1,561
	401(C) Authority - Off. Coll.	1,920	113
	Outlays	17,738	1,046

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Watershed planning			
12 1066 0 1 301	Budget Authority	9,162	541
	401(C) Authority - Off. Coll.	396	23
	Outlays	8,330	491
River basin surveys and investigations			
12 1069 0 1 301	Budget Authority	12,760	753
	401(C) Authority - Off. Coll.	191	11
	Outlays	12,134	716
Watershed and flood prevention operations			
12 1072 0 1 301	Budget Authority	184,338	10,876
	401(C) Authority - Off. Coll.	18,607	1,098
	Outlays	142,482	8,407
Great plains conservation program			
12 2268 0 1 302	Budget Authority	21,484	1,268
	Outlays	9,732	574
Miscellaneous contributed funds (Water resources)			
12 8210 0 7 301	401(C) Authority	502	30
	Outlays	502	30
Miscellaneous contributed funds (Conservation and land management)			
12 8210 0 7 302	401(C) Authority	100	6
Animal and Plant Health Inspection Service			
Salaries and expenses			
12 1600 0 1 352	Budget Authority	346,765	20,459
	401(C) Authority - Off. Coll.	27,768	1,638
	Outlays	324,599	19,151
Buildings and facilities			
12 1601 0 1 352	Budget Authority	2,340	138
Federal Grain Inspection Service			
Salaries and expenses			
12 2400 0 1 352	Budget Authority	7,413	437
	Outlays	6,190	365
Inspection and weighing services			
12 4050 0 3 352	401(C) Authority - Off. Coll.	36,856	2,175
	Outlays	36,856	2,175
Agricultural Marketing Service			
Marketing services			
12 2500 0 1 352	Budget Authority	34,252	2,021
	401(C) Authority - Off. Coll.	31,701	1,870
	Outlays	49,067	2,895
Payments to States and possessions			
12 2501 0 1 352	Budget Authority	982	58
	Outlays	27	2
Perishable Agricultural Commodities Act fund			
12 5070 0 2 352	401(C) Authority	5,329	314
	Outlays	4,842	286
Funds for strengthening markets, income, and supply (section 32)			
12 5209 0 2 605	401(C) Authority	406,000	23,954
	Outlays	275,000	16,225
Milk market orders assessment fund			
12 8412 0 8 351	401(C) Authority - Off. Coll.	36,865	2,175
	Outlays	36,865	2,175
Miscellaneous trust funds			
12 9972 0 7 352	401(C) Authority	85,979	5,073
	Outlays	72,205	4,260
Office of Transportation			
Office of Transportation			
12 2800 0 1 352	Budget Authority	2,534	150
	Outlays	2,073	122
Food Safety and Inspection Service			
Salaries and expenses			
12 3700 0 1 554	Budget Authority	414,812	24,474
	401(C) Authority - Off. Coll.	46,384	2,737
	Outlays	432,159	25,498
Expenses and refunds, inspection and grading of farm products			
12 8137 0 7 352	401(C) Authority	825	49
	Outlays	575	34
Food and Nutrition Service			
Special milk program			
12 3502 0 1 605	401(C) Authority - Spec. Rules	139	139
	Outlays	97	97
Cash and commodities for selected groups			
12 3503 0 1 605	Budget Authority	202,261	11,933
	Outlays	163,831	9,666
Food stamp program			
12 3505 0 1 605	401(C) Authority	60,000	3,540
	Outlays	24,000	1,416

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Food program administration			
12 3508 0 1 605	Budget Authority	90,891	5,363
	Outlays	83,620	4,934
Supplemental feeding programs			
12 3510 0 1 605	Budget Authority	3,000	177
	Outlays	3,000	177
Child nutrition programs			
12 3539 0 1 605	401(C) Authority	3,033	179
	Outlays	3,033	179
Human Nutrition Information Service			
Salaries and expenses			
12 3501 0 1 352	Budget Authority	9,058	534
	Outlays	3,904	230
Packers and Stockyards Administration			
Packers and Stockyards Administration			
12 2600 0 1 352	Budget Authority	9,951	587
	Outlays	8,936	527
Agricultural Cooperative Service			
Salaries and expenses			
12 3000 0 1 352	Budget Authority	4,867	287
	Outlays	2,803	165
Forest Service			
Construction			
12 1103 0 1 302	Budget Authority	224,629	13,253
	401(C) Authority - Off. Coll.	1,505	89
	Outlays	132,464	7,816
Forest research			
12 1104 0 1 302	Budget Authority	139,692	8,241
	401(C) Authority - Off. Coll.	738	44
	Outlays	105,926	6,250
State and private forestry			
12 1105 0 1 302	Budget Authority	79,984	4,719
	Outlays	58,948	3,478
National forest system			
12 1106 0 1 302	Budget Authority	1,310,471	77,318
	Outlays	1,153,700	68,068
Land acquisition			
12 5004 0 2 303	Budget Authority	51,163	3,019
	Outlays	20,465	1,207
Range betterment fund			
12 5207 0 2 302	Budget Authority	3,782	223
	Outlays	3,026	179
Acquisition of lands for national forests, special acts			
12 5208 0 2 302	Budget Authority	1,008	59
	Outlays	850	50
Acquisition of lands to complete land exchanges			
12 5216 0 2 302	Budget Authority	335	20
	Outlays	297	18
Operations and maintenance of quarters			
12 5219 0 2 302	401(C) Authority	5,761	340
	Outlays	4,626	273
Cooperative work trust fund			
12 8028 0 7 302	401(C) Authority	267,748	15,797
	Outlays	225,979	13,333
Gifts, donations and bequests for forest and rangeland research			
12 8034 0 7 302	Budget Authority	90	5
	Outlays	90	5
Other appropriations			
12 9911 0 1 302	Budget Authority	38,554	2,275
	Outlays	35,470	2,093
Forest Service permanent appropriations			
12 9921 0 2 806	401(C) Authority	304,403	17,960
	Outlays	228,302	13,470
Forest Service permanent appropriations			
12 9922 0 2 302	401(C) Authority	91,733	5,413
	Outlays	68,854	4,063
Reforestation trust fund			
20 8046 0 7 302	401(C) Other - incl. ob. limit	30,000	1,770
	Outlays	30,000	1,770
TOTAL FOR Department of Agriculture			
	Budget Authority	9,276,067	547,287
	401(C) Authority	17,677,013	1,042,945
	401(C) Authority - Off. Coll.	350,464	20,677
	401(C) Other - incl. ob. limit	30,000	1,770
	401(C) Authority - Spec. Rules	139	139
	Direct Loan Limitation	14,069,447	830,098
	Direct Loan Floor	1,081,956	63,835
	Guaranteed Loan Limitation	10,929,866	644,862

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
	Guaranteed Loan Floor	970,398	57,253
	Obligation Limitation	1,831,117	108,036
	Outlays	26,929,236	1,588,920
Department of Commerce			
General Administration			
Salaries and expenses			
13 0120 0 1 376	Budget Authority	41,380	2,441
	Outlays	39,642	2,339
Grants and loans administration			
13 0125 0 1 452	Budget Authority	26,126	1,541
	Outlays	22,939	1,353
Economic development assistance programs			
13 2050 0 1 452	Budget Authority	189,673	11,191
	Guaranteed Loan Limitation	195,375	11,527
	Outlays	18,967	1,119
Bureau of the Census			
Salaries and expenses			
13 0401 0 1 376	Budget Authority	100,340	5,920
	401(C) Authority - Off. Coll.	8,000	472
	Outlays	97,303	5,741
Periodic censuses and programs			
13 0450 0 1 376	Budget Authority	365,171	21,545
	Outlays	280,086	16,525
Economic and Statistical Analysis			
Salaries and expenses			
13 1500 0 1 376	Budget Authority	33,909	2,001
	401(C) Authority - Off. Coll.	395	23
	Outlays	30,574	1,804
Information products and services			
13 8546 0 7 376	401(C) Authority	49,000	2,891
	Outlays	31,850	1,879
International Trade Administration			
Operations and administration			
13 1250 0 1 376	Budget Authority	170,199	10,042
	401(C) Authority - Off. Coll.	10,319	609
	Outlays	130,309	7,688
Export Administration			
Operations and administration			
13 0300 0 1 376	Budget Authority	39,452	2,328
	Outlays	27,814	1,641
Minority Business Development Agency			
Minority business development			
13 0201 0 1 376	Budget Authority	41,564	2,452
	Outlays	13,051	770
United States Travel and Tourism Administration			
Salaries and expenses			
13 0700 0 1 376	Budget Authority	12,311	726
	401(C) Authority - Off. Coll.	2,500	148
	Outlays	11,918	704
National Oceanic and Atmospheric Administration			
Operations, research, and facilities			
13 1450 0 1 306	Budget Authority	1,206,993	71,212
	401(C) Authority - Off. Coll.	14,778	872
	Outlays	835,533	49,296
Coastal energy impact fund			
13 4315 0 3 452	401(C) Authority - Off. Coll.	7,280	430
	Outlays	7,280	430
Federal ship financing fund, fishing vessels			
13 4417 0 3 376	401(C) Authority - Off. Coll.	1,160	68
	Guaranteed Loan Limitation	85,000	5,015
	Outlays	1,160	68
Fishermen's contingency fund			
13 5120 0 2 376	Budget Authority	750	44
	Outlays	713	42
Foreign fishing observer fund			
13 5122 0 2 376	Budget Authority	2,018	119
	Outlays	1,939	114
Fisheries promotional fund			
13 5124 0 2 376	Budget Authority	2,735	161
	Outlays	1,507	89
Promote and develop fishery products and research pertaining to American			
13 5139 0 2 376	401(C) Other - incl. ob. limit	9,445	557
	Outlays	5,136	303
Aviation weather services program			
13 8105 0 7 306	Budget Authority	29,479	1,739
	Outlays	29,479	1,739

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Patent and Trademark Office			
Salaries and expenses			
13 1006 0 1 376	Budget Authority	126,179	7,445
	401(C) Authority - Off. Coll.	160,476	9,468
	Outlays	229,874	13,562
National Bureau of Standards			
Scientific and technical research and services			
13 0500 0 1 376	Budget Authority	148,382	8,754
	Outlays	115,683	6,825
Working capital fund			
13 4650 0 4 376	Budget Authority	4,205	248
	Outlays	2,103	124
National Telecommunications and Information Administration			
Salaries and expenses			
13 0550 0 1 376	Budget Authority	14,595	861
	Outlays	11,676	689
Public telecommunications facilities, planning and construction			
13 0551 0 1 503	Budget Authority	22,201	1,310
	Outlays	2,575	152
TOTAL FOR Department of Commerce			
	Budget Authority	2,577,662	152,080
	401(C) Authority	49,000	2,891
	401(C) Authority - Off. Coll.	204,908	12,090
	401(C) Other - incl. ob. limit	9,445	557
	Guaranteed Loan Limitation	280,375	16,542
	Outlays	1,949,111	114,996
Department of Defense--Military			
Operation and Maintenance			
Operation and maintenance, Marine Corps			
17 1106 0 1 051	Budget Authority	1,905,486	141,006
	Outlays	1,619,663	119,855
Operation and maintenance, Marine Corps Reserve			
17 1107 0 1 051	Budget Authority	72,598	5,372
	Outlays	46,680	3,454
Operation and maintenance, Navy			
17 1804 0 1 051	Budget Authority	24,838,856	1,838,075
	Outlays	18,877,531	1,396,938
Operation and maintenance, Navy Reserve			
17 1806 0 1 051	Budget Authority	970,424	71,811
	Outlays	747,226	55,295
National Board for the Promotion of Rifle Practice, Army			
21 1705 0 1 051	Budget Authority	4,290	317
	Outlays	4,183	310
Operation and maintenance, Army			
21 2020 0 1 051	Budget Authority	22,072,125	1,633,337
	Outlays	17,657,700	1,306,670
Operation and maintenance, Army National Guard			
21 2065 0 1 051	Budget Authority	1,947,268	144,098
	Outlays	1,723,526	127,541
Operation and maintenance, Army Reserve			
21 2080 0 1 051	Budget Authority	899,946	66,596
	Outlays	792,402	58,638
Operation and maintenance, Air Force			
57 3400 0 1 051	Budget Authority	20,732,760	1,534,224
	Outlays	16,171,553	1,196,695
Operation and maintenance, Air Force Reserve			
57 3740 0 1 051	Budget Authority	1,050,213	77,716
	Outlays	927,338	68,623
Operation and maintenance, Air National Guard			
57 3840 0 1 051	Budget Authority	2,053,348	151,948
	Outlays	1,893,187	140,096
Operation and maintenance, Defense agencies			
97 0100 0 1 051	Budget Authority	7,502,461	555,182
	Outlays	6,452,116	477,456
Court of Military Appeals, Defense			
97 0104 0 1 051	Budget Authority	3,425	253
	Outlays	2,946	218
Foreign currency fluctuations, Defense			
97 0801 0 1 051	Unobligated Balances - Defense	281,905	20,861
Environmental restoration, Defense			
97 0810 0 1 051	Budget Authority	10,420	771
	Outlays	7,868	583
Humanitarian assistance			
97 0819 0 1 051	Budget Authority	10,426	771
	Outlays	6,133	454

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Procurement			
Coastal defense augmentation			
17 0380 0 1 051	Budget Authority	20,840	1,542
	Unobligated Balances - Defense	4,000	296
	Outlays	2,410	179
Procurement, Marine Corps			
17 1109 0 1 051	Budget Authority	1,350,014	99,901
	Unobligated Balances - Defense	304,981	22,569
	Outlays	112,540	8,328
Aircraft procurement, Navy			
17 1506 0 1 051	Budget Authority	9,922,236	734,245
	Unobligated Balances - Defense	2,174,692	160,927
	Outlays	1,088,723	80,565
Weapons procurement, Navy			
17 1507 0 1 051	Budget Authority	6,214,508	459,874
	Unobligated Balances - Defense	1,765,556	130,651
	Outlays	877,806	64,958
Shipbuilding and conversion, Navy			
17 1611 0 1 051	Budget Authority	16,833,880	1,245,707
	Unobligated Balances - Defense	9,736,176	720,477
	Outlays	1,381,642	102,242
Other procurement, Navy			
17 1810 0 1 051	Budget Authority	5,078,146	375,783
	Unobligated Balances - Defense	1,909,045	141,269
	Outlays	705,707	52,222
Aircraft procurement, Army			
21 2031 0 1 051	Budget Authority	2,832,579	209,611
	Unobligated Balances - Defense	547,687	40,529
	Outlays	517,181	38,271
Missile procurement, Army			
21 2032 0 1 051	Budget Authority	2,430,191	179,834
	Unobligated Balances - Defense	624,671	46,226
	Outlays	232,169	17,180
Procurement of weapons and tracked combat vehicles, Army			
21 2033 0 1 051	Budget Authority	3,341,889	247,300
	Unobligated Balances - Defense	1,058,842	78,354
	Outlays	202,434	14,980
Procurement of ammunition, Army			
21 2034 0 1 051	Budget Authority	2,369,083	175,312
	Unobligated Balances - Defense	179,121	13,255
	Outlays	637,051	47,142
Other procurement, Army			
21 2035 0 1 051	Budget Authority	5,312,342	393,113
	Unobligated Balances - Defense	1,704,258	126,115
	Outlays	406,963	30,116
Aircraft procurement, Air Force			
57 3010 0 1 051	Budget Authority	13,487,897	998,104
	Unobligated Balances - Defense	6,102,810	451,608
	Outlays	1,287,432	95,270
Missile procurement, Air Force			
57 3020 0 1 051	Budget Authority	7,599,588	562,370
	Unobligated Balances - Defense	3,035,208	224,605
	Outlays	2,648,065	195,957
Other procurement, Air Force			
57 3080 0 1 051	Budget Authority	8,347,282	617,699
	Unobligated Balances - Defense	2,452,839	181,510
	Outlays	5,292,059	391,612
Procurement, Defense agencies			
97 0300 0 1 051	Budget Authority	1,319,446	97,639
	Unobligated Balances - Defense	410,951	30,410
	Outlays	378,957	28,043
National guard and reserve equipment			
97 0350 0 1 051	Budget Authority	1,250,400	92,530
	Unobligated Balances - Defense	463,723	34,316
	Outlays	102,847	7,611
Defense production act purchases			
97 0360 0 1 051	Budget Authority	13,546	1,002
	Unobligated Balances - Defense	18,200	1,347
Chemical agents and munitions destruction, Defense			
97 0390 0 1 051	Budget Authority	206,837	15,306
	Unobligated Balances - Defense	31,751	2,350
	Outlays	124,089	9,183
Research, Development, Test, and Evaluation			
Research, development, test, and evaluation, Navy			
17 1319 0 1 051	Budget Authority	9,894,384	732,184
	Unobligated Balances - Defense	485,396	35,919
	Outlays	5,397,485	399,414

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Research, development, test, and evaluation, Army			
21 2040 0 1 051	Budget Authority	4,901,792	362,732
	Unobligated Balances - Defense	333,913	24,710
	Outlays	2,931,995	216,967
Research, development, test, and evaluation, Air Force			
57 3600 0 1 051	Budget Authority	15,644,016	1,157,657
	Unobligated Balances - Defense	1,739,669	128,736
	Outlays	9,213,354	681,788
Research, development, test, and evaluation, Defense agencies			
97 0400 0 1 051	Budget Authority	7,882,570	583,310
	Unobligated Balances - Defense	589,149	43,597
	Outlays	4,490,012	332,260
Developmental test and evaluation, Defense			
97 0450 0 1 051	Budget Authority	189,765	14,043
	Unobligated Balances - Defense	32,192	2,382
	Outlays	66,587	4,928
Operational test and evaluation, Defense			
97 0460 0 1 051	Budget Authority	73,170	5,415
	Unobligated Balances - Defense	14,044	1,039
	Outlays	38,593	2,856
Military Construction			
Military construction, Navy			
17 1205 0 1 051	Budget Authority	1,483,300	109,764
	Unobligated Balances - Defense	706,591	52,288
	Outlays	635,068	46,995
Military construction, Naval Reserve			
17 1235 0 1 051	Budget Authority	76,834	5,686
	Unobligated Balances - Defense	23,383	1,730
	Outlays	15,032	1,113
Military construction, Army			
21 2050 0 1 051	Budget Authority	1,099,019	81,327
	401(C) Authority	214,000	15,836
	Unobligated Balances - Defense	431,691	31,945
	Outlays	523,413	38,733
Military construction, Army National Guard			
21 2085 0 1 051	Budget Authority	192,150	14,219
	Unobligated Balances - Defense	13,137	972
	Outlays	24,634	1,823
Military construction, Army Reserve			
21 2086 0 1 051	Budget Authority	99,179	7,339
	Unobligated Balances - Defense	19,102	1,414
	Outlays	29,570	2,188
Military construction, Air Force			
57 3300 0 1 051	Budget Authority	1,264,274	93,557
	Unobligated Balances - Defense	734,068	54,321
	Outlays	579,518	42,884
Military construction, Air Force Reserve			
57 3730 0 1 051	Budget Authority	82,631	6,115
	Unobligated Balances - Defense	30,439	2,252
	Outlays	12,664	937
Military construction, Air National Guard			
57 3830 0 1 051	Budget Authority	157,645	11,666
	Unobligated Balances - Defense	40,758	3,016
	Outlays	19,840	1,469
Military construction, Defense agencies			
97 0500 0 1 051	Budget Authority	576,628	42,671
	Unobligated Balances - Defense	264,985	19,609
	Outlays	235,653	17,439
North Atlantic Treaty Organization infrastructure			
97 0804 0 1 051	Budget Authority	402,212	29,764
	Unobligated Balances - Defense	183,839	13,604
	Outlays	46,884	3,469
Family Housing			
Family housing, Navy and Marine Corps			
17 0703 0 1 051	Budget Authority	801,932	59,343
	Unobligated Balances - Defense	96,266	7,124
	Outlays	502,991	37,221
Family housing, Army			
21 0702 0 1 051	Budget Authority	1,677,884	124,164
	Unobligated Balances - Defense	105,341	7,795
	Outlays	998,606	73,896
Family housing, Air Force			
57 0704 0 1 051	Budget Authority	878,260	64,991
	Unobligated Balances - Defense	79,137	5,856
	Outlays	536,142	39,674

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Family housing, Defense agencies			
97 0706 0 1 051	Budget Authority	21,569	1,596
	Unobligated Balances - Defense	1,481	110
	Outlays	12,908	955
Revolving and Management Funds			
Navy stock fund			
17 4911 0 4 051	Budget Authority	343,235	25,399
	Outlays	260,859	19,304
Army stock fund			
21 4991 0 4 051	Budget Authority	201,322	14,898
	Outlays	153,005	11,322
Air Force stock fund			
57 4921 0 4 051	Budget Authority	235,499	17,427
	Outlays	178,980	13,245
ADP equipment management fund			
97 3910 0 4 051	Unobligated Balances - Defense	56,479	4,179
	Outlays	9,151	677
National defense stockpile transaction fund			
97 4550 0 3 051	Budget Authority	19,798	1,465
	Unobligated Balances - Defense	423,501	31,339
	Outlays	31,017	2,295
Defense stock fund			
97 4961 0 4 051	Budget Authority	138,169	10,225
	Outlays	105,009	7,771
TOTAL FOR Department of Defense--Military			
	Budget Authority	220,341,987	16,305,306
	401(C) Authority	214,000	15,836
	Unobligated Balances - Defense	39,210,977	2,901,612
	Outlays	109,977,097	8,138,308
Department of Defense--Civil			
Cemeterial Expenses, Army			
Salaries and expenses			
21 1805 0 1 705	Budget Authority	9,631	569
	Outlays	7,183	424
Corps of Engineers--Civil			
Inland waterways trust fund			
20 8861 0 7 301	Budget Authority	77,467	4,571
	Outlays	51,903	3,062
Flood control, Mississippi River and tributaries			
96 3112 0 1 301	Budget Authority	337,980	19,941
	401(C) Authority - Off. Coll.	250	15
	Outlays	277,394	16,366
General investigations			
96 3121 0 1 301	Budget Authority	142,405	8,402
	Outlays	98,829	5,831
Construction, general			
96 3122 0 1 301	Budget Authority	1,107,268	65,329
	401(C) Authority - Off. Coll.	160	9
	Outlays	686,666	40,513
Operation and maintenance, general (Water resources)			
96 3123 0 1 301	Budget Authority	1,184,714	69,898
	401(C) Authority - Off. Coll.	4,565	269
	Outlays	987,878	58,284
Operation and maintenance, general (Recreational resources)			
96 3123 0 1 303	Budget Authority	15,000	885
	Outlays	11,700	690
General expenses			
96 3124 0 1 301	Budget Authority	120,000	7,080
	Outlays	96,000	5,664
Flood control and coastal emergencies			
96 3125 0 1 301	Budget Authority	20,000	1,180
General regulatory functions			
96 3126 0 1 301	Budget Authority	60,427	3,565
	Outlays	50,154	2,959
Rivers and harbors contributed funds			
96 8862 0 7 301	401(C) Authority	162,323	9,577
	Outlays	100,640	5,938
Harbor maintenance trust fund			
96 8863 0 7 301	Budget Authority	171,000	10,089
	Outlays	141,930	8,374
Permanent appropriations (Water resources)			
96 9921 0 2 301	401(C) Authority	3,126	184
	Outlays	2,013	119
Permanent appropriations (Other general purpose fiscal assistance)			
96 9921 0 2 806	401(C) Authority	6,000	354
	Outlays	6,000	354

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Soldiers' and Airmen's Home			
Operation and maintenance			
84 8931 0 7 705	Budget Authority	37,938	2,238
	401(C) Authority - Off. Coll.	144	8
	Outlays	33,340	1,967
Capital outlays			
84 8932 0 7 705	Budget Authority	16,094	950
	Outlays	322	19
Forest and Wildlife Conservation, Military Reservations			
Forest products program			
21 5285 0 2 302	401(C) Authority	2,000	118
	Outlays	2,000	118
Wildlife conservation			
97 5095 0 2 303	401(C) Authority	2,050	121
	Outlays	1,792	106
TOTAL FOR Department of Defense--Civil			
	Budget Authority	3,299,924	194,697
	401(C) Authority	175,499	10,354
	401(C) Authority - Off. Coll.	5,119	301
	Outlays	2,555,744	150,788
Department of Health and Human Services, except Social Security			
Food and Drug Administration			
Program expenses			
75 0600 0 1 554	Budget Authority	508,104	29,978
	Outlays	442,051	26,081
Buildings and facilities			
75 0603 0 1 554	Budget Authority	1,511	89
	Outlays	982	58
Revolving fund for certification and other services			
75 4309 0 3 554	401(C) Authority - Off. Coll.	3,187	188
	Outlays	3,187	188
Health Resources and Services Administration			
Health resources and services (Health care services)			
75 0350 0 1 551	Budget Authority	960,883	56,692
	Budget Authority - Spec. Rules	8,898	8,898
	401(C) Authority - Off. Coll.	375	22
	Direct Loan Limitation	995	59
	Outlays	543,452	36,753
Health resources and services (Education and training of health care wor			
75 0350 0 1 553	Budget Authority	217,952	12,859
	Outlays	65,386	3,858
Indian Health Service			
Tribal and Federal health services			
75 0390 0 1 551	Budget Authority	73,113	4,314
	Budget Authority - Spec. Rules	18,351	18,351
	401(C) Authority - Spec. Rules	772	772
	Outlays	72,090	18,427
Indian health facilities			
75 0391 0 1 551	Budget Authority - Spec. Rules	1,304	1,304
	Outlays	326	326
Centers for Disease Control			
Disease control, research, and training (Health care services)			
75 0943 0 1 551	Budget Authority	734,467	43,334
	401(C) Authority - Off. Coll.	1,005	59
	Outlays	449,030	26,492
Disease control, research, and training (Health research)			
75 0943 0 1 552	Budget Authority	72,879	4,300
	Outlays	53,202	3,139
National Institutes of Health			
National Library of Medicine (Health research)			
75 0807 0 1 552	Budget Authority	23,019	1,358
	Outlays	14,732	869
National Library of Medicine (Education and training of health care work			
75 0807 0 1 553	Budget Authority	48,157	2,841
	Outlays	30,820	1,818
John E. Fogarty International Center			
75 0819 0 1 552	Budget Authority	16,358	965
	Outlays	9,324	550
Buildings and facilities			
75 0838 0 1 552	Budget Authority	49,881	2,943
	Outlays	13,967	824
National Institute on Aging (Health research)			
75 0843 0 1 552	Budget Authority	194,464	11,473
	Outlays	64,173	3,786

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Institute on Aging (Education and training of health care work			
75 0843 0 1 553	Budget Authority	8,809	520
	Outlays	4,140	244
National Institute of Child Health and Human Development (Health researc			
75 0844 0 1 552	Budget Authority	397,681	23,463
	Outlays	135,212	7,978
National Institute of Child Health and Human Development (Education and			
75 0844 0 1 553	Budget Authority	16,279	960
	Outlays	1,628	96
Office of the Director (Health research)			
75 0846 0 1 552	Budget Authority	59,294	3,498
	Outlays	29,054	1,714
Office of the Director (Education and training of health care work force			
75 0846 0 1 553	Budget Authority	5,579	329
	Outlays	5,300	313
Research resources (Health research)			
75 0848 0 1 552	Budget Authority	381,378	22,501
	Outlays	179,248	10,576
Research resources (Education and training of health care work force)			
75 0848 0 1 553	Budget Authority	2,338	138
	Outlays	117	7
National Cancer Institute (Health research)			
75 0849 0 1 552	Budget Authority	1,498,667	88,421
	401(C) Authority - Off. Coll.	10	1
	Outlays	629,450	37,138
National Cancer Institute (Education and training of health care work fo			
75 0849 0 1 553	Budget Authority	34,501	2,036
	Outlays	690	41
National Institute of General Medical Sciences (Health research)			
75 0851 0 1 552	Budget Authority	588,909	34,746
	Outlays	223,785	13,203
National Institute of General Medical Sciences (Education and training o			
75 0851 0 1 553	Budget Authority	70,472	4,158
	Outlays	7,752	457
National Institute of Environmental Health Sciences (Health research)			
75 0862 0 1 552	Budget Authority	215,598	12,720
	Outlays	122,891	7,251
National Institute of Environmental Health Sciences (Education and train			
75 0862 0 1 553	Budget Authority	9,701	572
	Outlays	2,328	137
National Heart, Lung and Blood Institute (Health research)			
75 0872 0 1 552	Budget Authority	963,629	56,854
	Outlays	366,179	21,605
National Heart, Lung and Blood Institute (Education and training of heal			
75 0872 0 1 553	Budget Authority	43,230	2,551
	Outlays	1,729	102
National Institute of Dental Research (Health research)			
75 0873 0 1 552	Budget Authority	126,135	7,442
	Outlays	60,545	3,572
National Institute of Dental Research (Education and training of health			
75 0873 0 1 553	Budget Authority	5,771	340
	Outlays	3,174	187
National Institute of Diabetes and Digestive and Kidney Diseases (Health			
75 0884 0 1 552	Budget Authority	535,093	31,570
	Outlays	171,230	10,103
National Institute of Diabetes and Digestive and Kidney Diseases (Educat			
75 0884 0 1 553	Budget Authority	22,712	1,340
	Outlays	4,542	268
National Institute of Allergy and Infectious Diseases (Health research)			
75 0885 0 1 552	Budget Authority	652,767	38,513
	Outlays	221,941	13,095
National Institute of Allergy and Infectious Diseases (Education and tra			
75 0885 0 1 553	Budget Authority	13,613	803
	Outlays	1,906	112
National Institute of Neurological and Communicative Disorders and Strok			
75 0886 0 1 552	Budget Authority	542,554	32,011
	401(C) Authority - Off. Coll.	12	1
	Outlays	184,480	10,885
National Institute of Neurological and Communicative Disorders and Strok			
75 0886 0 1 553	Budget Authority	15,235	899
	Outlays	4,418	261
National Eye Institute (Health research)			
75 0887 0 1 552	Budget Authority	228,460	13,479
	Outlays	75,392	4,448

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Eye Institute (Education and training of health care work force			
75 0887 0 1 553	Budget Authority	6,143	362
	Outlays	1,536	91
National Institute of Arthritis and Musculoskeletal and Skin Diseases (H			
75 0888 0 1 552	Budget Authority	147,800	8,720
	Outlays	47,296	2,790
National Institute of Arthritis and Musculoskeletal and Skin Diseases (E			
75 0888 0 1 553	Budget Authority	6,181	365
	Outlays	1,236	73
National Center for Nursing Research (Health research)			
75 0889 0 1 552	Budget Authority	21,373	1,261
	Outlays	1,710	101
National Center for Nursing Research (Education and training of health c			
75 0889 0 1 553	Budget Authority	3,017	178
	Outlays	1,358	80
Alcohol, Drug Abuse, and Mental Health Administration			
Federal subsidy for Saint Elizabeths Hospital			
75 1300 0 1 551	Budget Authority	68,384	4,035
	Outlays	68,384	4,035
Alcohol, drug abuse, and mental health (Health care services)			
75 1361 0 1 551	Budget Authority	825,537	48,707
	Outlays	544,854	32,146
Alcohol, drug abuse, and mental health (Health research)			
75 1361 0 1 552	Budget Authority	565,016	33,336
	Outlays	502,864	29,669
Alcohol, drug abuse, and mental health (Education and training of health			
75 1361 0 1 553	Budget Authority	42,448	2,504
	Outlays	33,534	1,979
Office of Assistant Secretary for Health			
Public health service management (Health care services)			
75 1101 0 1 551	Budget Authority	40,861	2,411
	401(C) Authority - Off. Coll.	25	1
	Outlays	24,133	1,423
Public health service management (Health research)			
75 1101 0 1 552	Budget Authority	71,323	4,208
	Outlays	48,500	2,862
Health Care Financing Administration			
Federal supplementary medical insurance trust fund			
20 8004 0 7 571	401(C) Other - incl. ob. limit	66,384	3,916
	401(C) Authority - Spec. Rules	460,000	460,000
	Obligation Limitation	1,112,753	65,653
	Outlays	1,545,047	524,018
Federal hospital insurance trust fund			
20 8005 0 7 571	401(C) Other - incl. ob. limit	255,693	15,086
	401(C) Authority - Spec. Rules	997,000	997,000
	Obligation Limitation	854,704	50,428
	Outlays	1,936,471	1,052,430
Program management (Health care services)			
75 0511 0 1 551	Budget Authority	92,578	5,462
	Outlays	78,691	4,643
Program management (Health research)			
75 0511 0 1 552	Budget Authority	10,000	590
	Outlays	8,000	472
Social Security Administration			
Supplemental security income program			
75 0406 0 1 609	401(C) Authority	827,283	48,810
	Outlays	827,283	48,810
Special benefits for disabled coal miners			
75 0409 0 1 601	401(C) Authority	6,749	398
	Outlays	6,749	398
Family Support Administration			
Program administration			
75 1500 0 1 609	Budget Authority	83,819	4,945
	Outlays	69,570	4,105
Family support payments to States			
75 1501 0 1 609	401(C) Authority	1,153,000	68,027
	Outlays	1,153,000	68,027
Low income home energy assistance			
75 1502 0 1 609	Budget Authority	1,596,177	94,174
	Outlays	1,452,521	85,699
Refugee and entrant assistance			
75 1503 0 1 609	Budget Authority	361,504	21,329
	Outlays	231,363	13,650
Community services block grant			
75 1504 0 1 506	Budget Authority	398,346	23,502
	Outlays	274,062	16,170

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Work incentives			
75 1505 0 1 504	Budget Authority	96,438	5,690
	Outlays	90,652	5,348
Interim assistance to States for legalization			
75 1508 0 1 506	401(C) Other - incl. ob. limit	665,000	39,235
	Outlays	335,000	19,765
Human Development Services			
Social services block grant			
75 1634 0 1 506	401(C) Authority	2,700,000	159,300
	Outlays	2,589,300	152,769
Human development services			
75 1636 0 1 506	Budget Authority	2,559,644	151,019
	Outlays	1,458,997	86,081
Payments to States for foster care and adoption assistance			
75 1645 0 1 506	401(C) Authority - Spec. Rules	5,132	5,132
	Outlays	3,968	3,968
Departmental Management			
General Departmental management			
75 0120 0 1 609	Budget Authority	71,563	4,222
	Outlays	53,672	3,167
Policy research			
75 0122 0 1 609	Budget Authority	5,084	300
	Outlays	3,050	180
Office of the Inspector General			
75 0128 0 1 609	Budget Authority	37,838	2,232
	Outlays	28,379	1,674
Office for Civil Rights			
75 0135 0 1 751	Budget Authority	17,301	1,021
	Outlays	15,225	898
Office of Consumer Affairs			
75 0137 0 1 506	Budget Authority	1,758	104
	Outlays	1,635	96
TOTAL FOR Department of Health and Human Services, except So			
	Budget Authority	16,469,326	971,687
	Budget Authority - Spec. Rules	28,553	28,553
	401(C) Authority	4,687,032	276,535
	401(C) Authority - Off. Coll.	4,614	272
	401(C) Other - incl. ob. limit	987,077	58,237
	401(C) Authority - Spec. Rules	1,462,904	1,462,904
	Direct Loan Limitation	995	59
	Obligation Limitation	1,967,457	116,081
	Outlays	17,637,893	2,434,579
Department of the Interior			
Bureau of Land Management			
Management of lands and resources			
14 1109 0 1 302	Budget Authority	448,691	26,473
	Outlays	381,659	22,518
Construction and access			
14 1110 0 1 302	Budget Authority	3,595	212
	Outlays	899	53
Payments in lieu of taxes			
14 1114 0 1 806	Budget Authority	109,410	6,455
	Outlays	109,410	6,455
Oregon and California grant lands			
14 1116 0 1 302	Budget Authority	61,628	3,636
	Outlays	45,605	2,691
Special acquisition of lands and minerals			
14 1117 0 1 302	401(C) Authority	1,300	77
	Outlays	1,300	77
Service charges, deposits, and forfeitures			
14 5017 0 2 302	Budget Authority	6,000	354
	Outlays	4,248	251
Land acquisition			
14 5033 0 2 302	Budget Authority	9,268	547
	Outlays	4,597	271
Operation and maintenance of quarters			
14 5048 0 2 302	401(C) Authority	261	15
	Outlays	217	13
Range improvements			
14 5132 0 2 302	Budget Authority	8,506	502
	Outlays	5,376	317
Miscellaneous permanent appropriations (Conservation and land management			
14 9921 0 2 302	401(C) Authority	6,773	400
	Outlays	6,529	385

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9921 0 2 806	401(C) Authority	76,936	4,539
Miscellaneous trust funds			
14 9971 0 7 302	Budget Authority	100	6
	401(C) Authority	625	37
	Outlays	369	21
Minerals Management Service			
Leasing and royalty management			
14 1917 0 1 302	Budget Authority	177,667	10,482
	Outlays	115,484	6,814
Payments to States from receipts under Mineral Leasing Act			
14 5003 0 2 806	401(C) Authority	435,094	25,671
	Outlays	398,981	23,540
Office of Surface Mining Reclamation and Enforcement			
Regulation and technology			
14 1801 0 1 302	Budget Authority	107,043	6,316
	Outlays	62,406	3,682
Abandoned mine reclamation fund			
14 5015 0 2 302	Budget Authority	215,360	12,706
	Outlays	64,008	3,776
Bureau of Reclamation			
Loan program			
14 0667 0 1 301	Budget Authority	26,022	1,535
	Direct Loan Limitation	27,766	1,638
	Outlays	16,004	944
Construction program			
14 0684 0 1 301	Budget Authority	712,305	42,026
	401(C) Authority - Off. Coll.	3,000	177
	Outlays	601,336	35,479
Lower Colorado River Basin development fund			
14 4079 0 3 301	401(C) Authority - Off. Coll.	98,296	5,799
	Outlays	98,296	5,799
Upper Colorado River Basin fund			
14 4081 0 3 301	401(C) Authority - Off. Coll.	30,150	1,779
	Outlays	30,150	1,779
Working capital fund			
14 4524 0 4 301	Budget Authority	4,000	236
	Outlays	3,200	189
Emergency fund			
14 5043 0 2 301	Budget Authority	1,000	59
	Outlays	605	36
General investigations			
14 5060 0 2 301	Budget Authority	14,250	841
	401(C) Authority - Off. Coll.	75	4
	Outlays	9,252	545
Operation and maintenance			
14 5064 0 2 301	Budget Authority	187,731	11,076
	401(C) Authority - Off. Coll.	8,313	490
	Outlays	154,180	9,096
General administrative expenses			
14 5065 0 2 301	Budget Authority	48,313	2,850
	Outlays	43,482	2,565
Colorado River dam fund, Boulder Canyon project			
14 5656 0 2 301	401(C) Other - incl. ob. limit	38,347	2,262
	Outlays	19,033	1,123
Reclamation trust funds			
14 8070 0 7 301	401(C) Authority	50,016	2,951
	Outlays	47,215	2,786
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9922 0 2 806	401(C) Authority	299	18
	Outlays	134	8
Geological Survey			
Surveys, investigations and research			
14 0804 0 1 306	Budget Authority	472,203	27,860
	401(C) Authority	250	15
	401(C) Authority - Off. Coll.	76,507	4,514
	Outlays	523,043	30,860
Operation and maintenance of quarters			
14 5055 0 2 306	401(C) Authority	75	4
	Outlays	30	2
Bureau of Mines			
Mines and minerals			
14 0959 0 1 306	Budget Authority	154,250	9,101
	Outlays	104,890	6,189

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Helium fund			
14 4053 0 3 306	401(C) Authority - Off. Coll.	3,730	220
	Outlays	3,730	220
United States Fish and Wildlife Service			
Resource management			
14 1611 0 1 303	Budget Authority	357,988	21,121
	401(C) Authority - Off. Coll.	1,000	59
	Outlays	286,800	16,921
Construction			
14 1612 0 1 303	Budget Authority	36,954	2,180
	Outlays	14,419	850
Land acquisition			
14 5020 0 2 303	Budget Authority	64,790	3,823
	Outlays	33,481	1,975
Operation and maintenance of quarters			
14 5050 0 2 303	401(C) Authority	1,727	102
	Outlays	1,209	71
National wildlife refuge fund			
14 5091 0 2 806	Budget Authority	5,882	347
	401(C) Other - incl. ob. limit	6,040	356
	Outlays	8,304	490
Migratory bird conservation account			
14 5137 0 2 303	Budget Authority	1,046	62
	401(C) Authority	29,378	1,733
	Outlays	21,611	1,275
Sport fish restoration			
14 8151 0 7 303	401(C) Authority	194,760	11,491
	Outlays	77,904	4,596
Contributed funds			
14 8216 0 7 303	401(C) Authority	140	8
	Outlays	140	8
Miscellaneous permanent appropriations			
14 9923 0 2 303	Budget Authority	2,950	174
	401(C) Authority	119,200	7,033
	Outlays	62,550	3,690
National Park Service			
Operation of the national park system			
14 1036 0 1 303	Budget Authority	759,825	44,829
	401(C) Authority - Off. Coll.	2,294	135
	Outlays	569,525	33,601
John F. Kennedy Center for the Performing Arts			
14 1038 0 1 303	Budget Authority	5,146	304
	Outlays	3,860	228
Construction			
14 1039 0 1 303	Budget Authority	125,788	7,421
	401(C) Authority - Off. Coll.	10,000	590
	Outlays	48,959	2,888
National recreation and preservation			
14 1042 0 1 303	Budget Authority	13,661	806
	Outlays	12,295	725
Illinois and Michigan canal national heritage-corridor Commission			
14 1043 0 1 303	Budget Authority	262	15
	Outlays	131	8
Land acquisition			
14 5035 0 2 303	Budget Authority	95,017	5,606
	401(C) Authority	30,000	1,770
	Outlays	49,080	2,896
Operation and maintenance of quarters			
14 5049 0 2 303	401(C) Authority	8,829	521
	Outlays	5,915	349
National park system visitor facilities fund			
14 5078 0 2 303	Budget Authority	0	0
Historic preservation fund			
14 5140 0 2 303	Budget Authority	29,437	1,737
	Outlays	15,160	894
Miscellaneous permanent appropriations			
14 9924 0 2 303	401(C) Authority	1,069	63
	Outlays	428	25
Bureau of Indian Affairs			
Operation of Indian programs (Conservation and land management)			
14 2100 0 1 302	Budget Authority	127,200	7,504
	Outlays	101,270	5,975
Operation of Indian programs (Area and regional development)			
14 2100 0 1 452	Budget Authority	614,061	36,230
	401(C) Authority - Off. Coll.	3,000	177
	Outlays	502,232	29,632

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Operation of Indian programs (Elementary, secondary, and vocational educ			
14 2100 0 1 501	Budget Authority	251,048	14,812
	Outlays	204,604	12,072
Construction			
14 2301 0 1 452	Budget Authority	113,044	6,670
	Outlays	46,198	2,726
Miscellaneous payments to Indians			
14 2303 0 1 452	Budget Authority	13,914	821
	Outlays	12,690	749
Road construction			
14 2364 0 1 452	Budget Authority	1,045	62
	401(C) Authority - Off. Coll.	1,000	59
	Outlays	1,941	115
Revolving fund for loans			
14 4409 0 3 452	Direct Loan Limitation	13,000	767
	Outlays	13,000	767
Indian loan guaranty and insurance fund			
14 4410 0 3 452	Budget Authority	1,916	113
	Guaranteed Loan Limitation	34,907	2,060
	Outlays	1,916	113
Operation and maintenance of quarters			
14 5051 0 2 452	401(C) Authority	7,366	435
	Outlays	1,576	93
Miscellaneous permanent appropriations (Area and regional development)			
14 9925 0 2 452	401(C) Authority	55,779	3,291
	Outlays	31,906	1,882
Miscellaneous permanent appropriations (Other general government)			
14 9925 0 2 808	401(C) Authority	2,000	118
	Outlays	2,000	118
Territorial and International Affairs			
Administration of territories			
14 0412 0 1 808	Budget Authority	45,748	2,699
	Outlays	25,253	1,490
Trust Territory of the Pacific Islands			
14 0414 0 1 808	Budget Authority	43,701	2,578
	Outlays	38,894	2,295
Compact of free association			
14 0415 0 1 808	Budget Authority	18,047	1,065
	401(C) Authority	14,880	878
	Outlays	32,927	1,943
Office of the Secretary			
Salaries and expenses			
14 0102 0 1 306	Budget Authority	50,145	2,959
	Outlays	42,623	2,515
Construction management			
14 0103 0 1 306	Budget Authority	1,903	112
	Outlays	1,715	101
Office of the Solicitor			
Office of the Solicitor			
14 0107 0 1 306	Budget Authority	24,395	1,439
	Outlays	21,956	1,295
Office of Inspector General			
Office of Inspector General			
14 0104 0 1 306	Budget Authority	18,785	1,108
	Outlays	16,907	998
TOTAL FOR Department of the Interior			
	Budget Authority	5,591,040	329,870
	401(C) Authority	1,036,757	61,170
	401(C) Authority - Off. Coll.	237,365	14,003
	401(C) Other - incl. ob. limit	44,387	2,618
	Direct Loan Limitation	40,766	2,405
	Guaranteed Loan Limitation	34,907	2,060
	Outlays	5,167,047	304,853
Department of Justice			
General Administration			
Salaries and expenses			
15 0129 0 1 751	Budget Authority	93,108	5,493
	Outlays	83,425	4,922
United States Parole Commission			
Salaries and expenses			
15 1061 0 1 751	Budget Authority	12,309	726
	Outlays	10,586	625
Legal Activities			
Salaries and expenses, Foreign Claims Settlement Commission			
15 0100 0 1 153	Budget Authority	527	31
	Outlays	382	23

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Salaries and expenses, General Legal Activities			
15 0128 0 1 752	Budget Authority	250,215	14,763
	Outlays	217,687	12,844
Fees and expenses of witnesses			
15 0311 0 1 752	Budget Authority	55,242	3,259
	Outlays	38,725	2,285
Salaries and expenses, Antitrust Division			
15 0319 0 1 752	Budget Authority	47,367	2,795
	Outlays	38,841	2,292
Salaries and expenses, United States Attorneys			
15 0322 0 1 752	Budget Authority	401,816	23,707
	Outlays	353,598	20,862
Salaries and expenses, United States Marshals Service			
15 0324 0 1 752	Budget Authority	197,156	11,632
	401(C) Authority - Off. Coll.	4,000	236
	Outlays	181,440	10,705
Independent counsel			
15 0327 0 1 752	401(C) Authority	6,000	354
	Outlays	6,000	354
Salaries and expenses, Community Relations Service			
15 0500 0 1 752	Budget Authority	35,408	2,089
	Outlays	30,097	1,776
Support of United States prisoners			
15 1020 0 1 752	Budget Authority	101,122	5,966
	Outlays	60,673	3,579
Assets forfeiture fund			
15 5042 0 2 752	Budget Authority	167,356	9,874
	Outlays	66,942	3,950
United States trustees system fund			
15 5073 0 2 752	Budget Authority	49,903	2,944
	Outlays	44,913	2,650
Federal Bureau of Investigation			
Salaries and expenses			
15 0200 0 1 751	Budget Authority	1,481,199	87,390
	401(C) Authority - Off. Coll.	40,211	2,372
	Outlays	1,225,170	72,285
Drug Enforcement Administration			
Salaries and expenses			
15 1100 0 1 751	Budget Authority	520,690	30,721
	401(C) Authority - Off. Coll.	1,500	89
	Outlays	392,018	23,130
Immigration and Naturalization Service			
Salaries and expenses			
15 1217 0 1 751	Budget Authority	768,845	45,362
	401(C) Authority - Off. Coll.	695	41
	Outlays	615,771	36,331
Immigration legalization			
15 5086 0 2 751	401(C) Authority	89,786	5,297
	Outlays	78,620	4,639
Immigration user fee			
15 5087 0 2 751	401(C) Authority	92,000	5,428
	Outlays	82,800	4,885
Federal Prison System			
Buildings and facilities			
15 1003 0 1 753	Budget Authority	210,210	12,402
	Outlays	21,021	1,240
National Institute of Corrections			
15 1004 0 1 754	Budget Authority	10,033	592
	Outlays	4,013	237
Salaries and expenses			
15 1060 0 1 753	Budget Authority	804,498	47,466
	401(C) Authority - Off. Coll.	11,825	698
	Outlays	758,399	44,746
Federal Prison Industries, Incorporated			
15 4500 0 4 753	Obligation Limitation	2,374	140
	Outlays	2,374	140
Office of Justice Programs			
Justice assistance			
15 0401 0 1 754	Budget Authority	238,860	14,093
	Outlays	88,378	5,214
Crime victims fund			
15 5041 0 2 754	401(C) Other - incl. ob. limit	85,000	5,015
	Outlays	42,500	2,508

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of Justice			
	Budget Authority	5,445,864	321,305
	401(C) Authority	187,786	11,079
	401(C) Authority - Off. Coll.	58,231	3,436
	401(C) Other - incl. ob. limit	85,000	5,015
	Obligation Limitation	2,374	140
	Outlays	4,444,373	262,222
Department of Labor			
Employment and Training Administration			
Program administration			
16 0172 0 1 504	Budget Authority	74,867	4,417
	Outlays	59,894	3,534
Training and employment services			
16 0174 0 1 504	Budget Authority	3,965,907	233,989
	Outlays	122,943	7,254
Community service employment for older Americans			
16 0175 0 1 504	Budget Authority	345,173	20,365
	Outlays	69,035	4,073
State unemployment insurance and employment service operations (Training			
16 0179 0 1 504	Budget Authority	23,344	1,377
	Outlays	5,229	309
Federal unemployment benefits and allowances			
16 0326 0 1 603	401(C) Authority	134,000	7,906
	Outlays	132,000	7,788
Advances to the unemployment trust fund and other funds (Unemployment co			
16 0327 0 1 603	Budget Authority	22,000	1,298
	Outlays	22,000	1,298
Unemployment trust fund (Training and employment)			
20 8042 0 7 504	Obligation Limitation	1,015,954	59,941
	Outlays	405,774	23,940
Unemployment trust fund (Unemployment compensation)			
20 8042 0 7 603	401(C) Other - incl. ob. limit	148,000	8,732
	Obligation Limitation	1,777,137	104,851
	Outlays	1,925,137	113,583
Labor-Management Services			
Salaries and expenses			
16 0104 0 1 505	Budget Authority	80,887	4,772
	Outlays	70,533	4,161
Pension Benefit Guaranty Corporation			
Pension Benefit Guaranty Corporation fund			
16 4204 0 3 601	Obligation Limitation	40,900	2,413
	Outlays	40,900	2,413
Employment Standards Administration			
Salaries and expenses			
16 0105 0 1 505	Budget Authority	219,294	12,938
	Outlays	188,154	11,101
Special workers' compensation expenses			
16 9971 0 7 601	Obligation Limitation	486	29
	Outlays	486	29
Black lung disability trust fund			
20 8144 0 7 601	401(C) Authority	54,083	3,191
	Outlays	54,083	3,191
Occupational Safety and Health Administration			
Salaries and expenses			
16 0400 0 1 554	Budget Authority	247,520	14,604
	Outlays	215,342	12,705
Mine Safety and Health Administration			
Salaries and expenses			
16 1200 0 1 554	Budget Authority	169,451	9,998
	Outlays	154,200	9,098
Bureau of Labor Statistics			
Salaries and expenses			
16 0200 0 1 505	Budget Authority	185,253	10,930
	Outlays	165,431	9,760
Departmental Management			
Office of the Inspector General			
16 0106 0 1 505	Budget Authority	39,066	2,305
	Outlays	29,534	1,743
Salaries and expenses			
16 0165 0 1 505	Budget Authority	121,385	7,162
	Outlays	105,848	6,245

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of Labor			
	Budget Authority	5,494,147	324,155
	401(C) Authority	188,083	11,097
	401(C) Other - incl. ob. limit	148,000	8,732
	Obligation Limitation	2,834,477	167,234
	Outlays	3,766,523	222,225
Department of State			
Department of State			
FMS interest buydown			
11 8882 0 1 152	401(C) Authority	270,000	15,930
Administration of Foreign Affairs			
Salaries and expenses			
19 0113 0 1 153	Budget Authority	1,780,623	105,057
	Outlays	1,406,692	82,995
Protection of foreign missions and officials			
19 0520 0 1 153	Budget Authority	9,378	553
	Outlays	3,751	221
Emergencies in the diplomatic and consular service			
19 0522 0 1 153	Budget Authority	4,168	246
	Direct Loan Limitation	729	43
	Outlays	2,859	169
Payment to the American Institute in Taiwan			
19 0523 0 1 153	Budget Authority	11,462	676
	Outlays	9,651	569
Acquisition and maintenance of buildings abroad			
19 0535 0 1 153	Budget Authority	326,710	19,276
	401(C) Authority - Off. Coll.	3,300	195
	Outlays	63,415	3,742
Representation allowances			
19 0545 0 1 153	Budget Authority	4,689	277
	Outlays	4,028	238
International Organizations and Conferences			
Contributions for international peacekeeping activities			
19 1124 0 1 153	Budget Authority	30,635	1,807
	Outlays	30,635	1,807
International conferences and contingencies			
19 1125 0 1 153	Budget Authority	6,254	369
	Outlays	4,253	251
Contributions to international organizations			
19 1126 0 1 153	Budget Authority	500,160	29,509
	401(C) Authority - Off. Coll.	862	51
	Outlays	476,014	28,085
International Commissions			
Salaries and expenses, IBWC			
19 1069 0 1 301	Budget Authority	10,848	640
	Outlays	9,329	550
Construction, IBWC			
19 1078 0 1 301	Budget Authority	3,306	195
	Outlays	661	39
American sections, international commissions			
19 1082 0 1 301	Budget Authority	4,542	268
	Outlays	3,070	181
International fisheries commissions			
19 1087 0 1 302	Budget Authority	10,991	648
	Outlays	10,980	648
Other			
United States emergency refugee and migration assistance fund			
11 0040 0 1 151	Budget Authority	25,008	1,475
International narcotics control			
11 1022 0 1 151	Budget Authority	102,987	6,076
	Outlays	36,045	2,127
Anti-terrorism assistance			
19 0114 0 1 152	Budget Authority	10,253	605
	Outlays	4,614	272
Soviet-East European research and training			
19 0118 0 1 153	Budget Authority	4,793	283
	Outlays	575	34
Payment to the Asia Foundation			
19 0525 0 1 153	Budget Authority	14,275	842
	Outlays	12,134	716
Migration and refugee assistance			
19 1143 0 1 151	Budget Authority	352,779	20,814
	Outlays	236,362	13,945
U.S. bilateral science and technology agreements			
19 1151 0 1 153	Budget Authority	1,980	117
	Outlays	1,980	117

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Fishermen's protective fund			
19 5116 0 2 376	Budget Authority	999	59
	Outlays	999	59
Fishermen's guaranty fund			
19 5121 0 2 376	Budget Authority	1,799	106
	Outlays	1,349	80
International Center, Washington, D.C.			
19 5151 0 2 153	401(C) Authority	410	24
	Outlays	410	24
TOTAL FOR Department of State			
	Budget Authority	3,218,639	189,898
	401(C) Authority	270,410	15,954
	401(C) Authority - Off. Coll.	4,162	246
	Direct Loan Limitation	729	43
	Outlays	2,319,806	136,869
Department of the Treasury			
Departmental Offices			
Salaries and expenses			
20 0101 0 1 803	Budget Authority	58,698	3,463
	401(C) Authority - Off. Coll.	4,342	256
	Outlays	55,116	3,252
International affairs			
20 0171 0 1 803	Budget Authority	24,359	1,437
	Outlays	21,071	1,243
Federal Law Enforcement Training Center			
Salaries and expenses			
20 0104 0 1 751	Budget Authority	30,821	1,818
	Outlays	27,739	1,637
Financial Management Service			
Salaries and expenses			
20 1801 0 1 803	Budget Authority	277,688	16,384
	Outlays	241,589	14,254
St Lawrence Seaway toll rebate program			
20 8865 0 7 808	Budget Authority	10,298	608
	Outlays	10,298	608
Federal Financing Bank			
Federal Financing Bank			
20 4521 0 4 803	401(C) Authority - Off. Coll.	2,000	118
	Outlays	2,000	118
Bureau of Alcohol, Tobacco and Firearms			
Salaries and expenses			
20 1000 0 1 751	Budget Authority	229,766	13,556
	Outlays	206,789	12,201
United States Customs Service			
Salaries and expenses			
20 0602 0 1 751	Budget Authority	1,019,802	60,168
	401(C) Authority	96,100	5,670
	Outlays	948,517	55,962
Operation and maintenance, air interdiction program			
20 0604 0 1 751	Budget Authority	148,485	8,761
	Outlays	81,667	4,818
Payments to the Government of Puerto Rico			
20 0606 0 1 751	Budget Authority	8,128	480
	Outlays	8,128	480
Customs forfeiture fund			
20 5693 0 2 803	Budget Authority	10,451	617
	Outlays	10,451	617
Customs services at small airports			
20 5694 0 2 808	Budget Authority	514	30
	Outlays	514	30
Refunds, transfers and expenses, unclaimed, abandoned and seized goods			
20 8789 0 7 803	401(C) Authority	17,778	1,049
	Outlays	17,778	1,049
Bureau of Engraving and Printing			
Bureau of Engraving and Printing fund			
20 4502 0 4 803	401(C) Authority - Off. Coll.	327,823	19,342
	Outlays	327,823	19,342
United States Mint			
Salaries and expenses			
20 1616 0 1 803	Budget Authority	44,367	2,618
	401(C) Authority - Off. Coll.	109,957	6,487
	Outlays	147,669	8,712
Bureau of the Public Debt			
Administering the public debt			
20 0560 0 1 803	Budget Authority	225,421	13,300
	Outlays	180,337	10,640

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Payment of Government losses in shipment			
20 1710 0 1 803	401(C) Authority	960	57
	Outlays	960	57
Internal Revenue Service			
Salaries and expenses			
20 0911 0 1 803	Budget Authority	91,877	5,421
	Outlays	71,664	4,228
Processing tax returns			
20 0912 0 1 803	Budget Authority	1,815,081	107,090
	Outlays	1,452,065	85,672
Examinations and appeals			
20 0913 0 1 803	Budget Authority	1,879,146	110,870
	Outlays	1,728,814	102,000
Investigation, collection and taxpayer service			
20 0914 0 1 803	Budget Authority	1,555,702	91,786
	Outlays	1,400,132	82,608
Federal tax lien revolving fund			
20 4413 0 3 803	401(C) Authority - Off. Coll.	6,780	400
	Outlays	6,780	400
United States Secret Service			
Contribution for annuity benefits			
20 1407 0 1 751	401(C) Authority	18,000	1,062
	Outlays	18,000	1,062
Salaries and expenses			
20 1408 0 1 751	Budget Authority	386,808	22,822
	Outlays	309,446	18,257
TOTAL FOR Department of the Treasury			
	Budget Authority	7,817,412	461,229
	401(C) Authority	132,838	7,838
	401(C) Authority - Off. Coll.	450,902	26,603
	Outlays	7,275,347	429,247
Department of Health and Human Services, Social Security			
Social Security			
Federal old-age and survivors insurance trust fund			
20 8006 0 7 651	Obligation Limitation	1,596,524	94,195
	Outlays	1,155,488	68,174
Federal disability insurance trust fund			
20 8007 0 7 651	Obligation Limitation	458,741	27,066
	Outlays	368,583	21,747
TOTAL FOR Department of Health and Human Services, Social Se			
	Obligation Limitation	2,055,265	121,261
	Outlays	1,524,071	89,921
Department of Education			
Office of Elementary and Secondary Education			
Indian education			
91 0101 0 1 501	Budget Authority	69,151	4,080
	Outlays	10,096	596
Impact aid			
91 0102 0 1 501	Budget Authority	738,232	43,556
	Outlays	588,371	34,714
Compensatory education for the disadvantaged			
91 0900 0 1 501	Budget Authority	4,518,678	266,602
	Outlays	542,241	31,992
School improvement programs			
91 1000 0 1 501	Budget Authority	1,084,005	63,956
	Outlays	130,081	7,675
Office of Bilingual Education and Minority Languages Affairs			
Bilingual, immigrant, and refugee education			
91 1300 0 1 501	Budget Authority	199,805	11,788
	Outlays	23,977	1,415
Office of Special Education and Rehabilitative Services			
Education for the handicapped			
91 0300 0 1 501	Budget Authority	1,947,518	114,904
	Outlays	241,492	14,248
Rehabilitation services and handicapped research			
91 0301 0 1 506	Budget Authority	219,335	12,941
	401(C) Authority - Spec. Rules	62,078	62,078
	Outlays	216,688	57,764
Payments to institutions for the handicapped (Elementary, secondary, and			
91 0600 0 1 501	Budget Authority	5,487	324
	Outlays	5,487	324
Payments to institutions for the handicapped (Higher education)			
91 0601 0 1 502	Budget Authority	32,921	1,942
	Outlays	32,921	1,942

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Payments to institutions for the handicapped (Higher education)			
91 0602 0 1 502	Budget Authority	64,807	3,824
	Outlays	60,919	3,594
Promotion of education for the blind			
91 8893 0 7 501	401(C) Authority	10	1
	Outlays	5	0
Office of Vocational and Adult Education			
Vocational and adult education			
91 0400 0 1 501	Budget Authority	1,047,790	61,820
	401(C) Authority	7,148	422
	Outlays	126,592	7,469
Office of Postsecondary Education			
Student financial assistance			
91 0200 0 1 502	Budget Authority	5,777,673	340,883
	Outlays	1,074,647	63,404
Higher education			
91 0201 0 1 502	Budget Authority	556,919	32,858
	Outlays	82,981	4,896
College construction loan insurance			
91 0210 0 1 502	Budget Authority	19,952	1,177
	Outlays	19,952	1,177
Guaranteed student loans			
91 0230 0 1 502	401(C) Authority - Spec. Rules	41,510	41,510
	Outlays	26,450	26,450
College housing and academic facilities loans			
91 0242 0 1 502	Direct Loan Limitation	64,845	3,826
	Outlays	1,675	99
Howard University			
91 0603 0 1 502	Budget Authority	179,436	10,587
	Outlays	171,003	10,089
College housing loans			
91 4250 0 3 502	401(C) Authority - Off. Coll.	753	44
	Outlays	678	40
Office of Educational Research and Improvement			
Libraries			
91 0104 0 1 503	Budget Authority	140,763	8,305
	Outlays	49,408	2,915
Education research and statistics			
91 1100 0 1 503	Budget Authority	70,362	4,151
	Outlays	30,256	1,785
Departmental Management			
Office for civil rights			
91 0700 0 1 751	Budget Authority	42,768	2,523
	Outlays	35,497	2,094
Program administration (Research and general education aids)			
91 0800 0 1 503	Budget Authority	254,153	14,995
	Outlays	210,947	12,446
Office of the Inspector General			
91 1400 0 1 751	Budget Authority	18,530	1,093
	Outlays	15,380	907
TOTAL FOR Department of Education			
	Budget Authority	16,988,285	1,002,309
	401(C) Authority	7,158	423
	401(C) Authority - Off. Coll.	753	44
	401(C) Authority - Spec. Rules	103,588	103,588
	Direct Loan Limitation	64,845	3,826
	Outlays	3,697,744	288,035
Department of Energy			
Atomic Energy Defense Activities			
Atomic energy defense activities			
89 0220 0 1 053	Budget Authority	6,660,925	492,908
	Unobligated Balances - Defense	660,309	48,863
	Outlays	4,539,165	335,898
Atomic energy defense activities			
89 0221 0 1 053	Budget Authority	1,439,075	106,492
	Outlays	892,227	66,025
Energy Programs			
Geothermal resources development fund			
89 0206 0 1 271	Budget Authority	75	4
	Outlays	75	4
Federal Energy Regulatory Commission			
89 0212 0 1 276	Budget Authority	108,760	6,417
	Outlays	38,066	2,246
Fossil energy research and development			
89 0213 0 1 271	Budget Authority	341,326	20,138
	Outlays	136,530	8,055

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Energy conservation			
89 0215 0 1 272	Budget Authority	335,756	19,810
	401(C) Authority	45,424	2,680
	Outlays	76,236	4,498
Energy information administration			
89 0216 0 1 276	Budget Authority	64,437	3,802
	Outlays	41,884	2,471
Economic regulation			
89 0217 0 1 276	Budget Authority	22,747	1,342
	Outlays	14,331	846
Strategic petroleum reserve			
89 0218 0 1 274	Budget Authority	171,177	10,099
	Outlays	94,147	5,555
Naval petroleum and oil shale reserves			
89 0219 0 1 271	Budget Authority	166,453	9,821
	Outlays	91,549	5,401
General science and research activities			
89 0222 0 1 251	Budget Authority	922,116	54,405
	Outlays	700,808	41,348
Energy supply, R&D activities			
89 0224 0 1 271	Budget Authority	2,142,326	126,397
	Outlays	1,071,163	63,199
Uranium supply and enrichment activities			
89 0226 0 1 271	Budget Authority	1,133,080	66,852
	Outlays	981,498	57,908
SPR petroleum			
89 0233 0 1 274	Budget Authority	457,171	26,973
	Outlays	301,600	17,794
Emergency preparedness			
89 0234 0 1 274	Budget Authority	6,512	384
	Outlays	5,210	307
Clean coal technology			
89 0235 0 1 271	401(C) Authority	525,000	30,975
	Outlays	52,500	3,098
Payments to states under Federal Power Act			
89 5105 0 2 806	401(C) Authority	1,909	113
	Outlays	1,909	113
Nuclear waste disposal fund			
89 5227 0 2 271	Budget Authority	369,832	21,820
	Outlays	184,916	10,910
Power Marketing Administration			
Operation and maintenance, Southeastern Power Administration			
89 0302 0 1 271	Budget Authority	1,165	69
	Outlays	1,025	60
Operation and maintenance, Southwestern Power Administration			
89 0303 0 1 271	Budget Authority	5,210	307
	Outlays	4,585	271
Operation and maintenance, Alaska Power Administration			
89 0304 0 1 271	Budget Authority	765	45
	Outlays	673	40
Bonneville Power Administration fund			
89 4045 0 3 271	401(C) Authority - Off. Coll.	47,500	2,803
	Outlays	41,800	2,466
Colorado river basins power marketing fund, Western Area Power Administr			
89 4452 0 3 271	401(C) Authority - Off. Coll.	7,668	452
	Outlays	6,748	398
Construction, rehabilitation, operation and maintenance, Western Area Po			
89 5068 0 2 271	Budget Authority	37,151	2,192
	Outlays	32,693	1,929
Departmental Administration			
Departmental administration			
89 0228 0 1 276	Budget Authority	403,665	23,816
	Outlays	242,199	14,290
TOTAL FOR Department of Energy			
	Budget Authority	14,789,724	994,093
	401(C) Authority	572,333	33,768
	401(C) Authority - Off. Coll.	55,168	3,255
	Unobligated Balances - Defense	660,309	48,863
	Outlays	9,553,537	645,130
Environmental Protection Agency			
Environmental Protection Agency			
Hazardous substance superfund			
20 8145 0 7 304	Budget Authority	1,177,105	69,449
	401(C) Authority - Off. Coll.	13,200	779
	Obligation Limitation	190,426	11,235
	Outlays	248,621	14,669

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Leaking underground storage tank trust fund			
20 8153 0 7 304	Budget Authority	15,029	887
	Obligation Limitation	5,011	296
	Outlays	2,254	133
Construction grants			
68 0103 0 1 304	Budget Authority	2,400,768	141,645
	Outlays	84,027	4,958
Research and development (Energy supply)			
68 0107 0 1 271	Budget Authority	52,363	3,089
	Outlays	15,185	896
Research and development (Pollution control and abatement)			
68 0107 0 1 304	Budget Authority	141,814	8,367
	Outlays	41,126	2,426
Abatement, control, and compliance			
68 0108 0 1 304	Budget Authority	631,652	37,267
	Direct Loan Limitation	17,662	1,042
	Outlays	284,243	16,770
Buildings and facilities			
68 0110 0 1 304	Budget Authority	24,487	1,445
	Outlays	4,163	246
Salaries and expenses			
68 0200 0 1 304	Budget Authority	807,283	47,630
	401(C) Authority - Off. Coll.	1,800	106
	Outlays	687,991	40,591
Payment to the hazardous substance superfund			
68 0250 0 1 304	Budget Authority	249,614	14,727
	Outlays	249,614	14,727
TOTAL FOR Environmental Protection Agency			
	Budget Authority	5,500,115	324,506
	401(C) Authority - Off. Coll.	15,000	885
	Direct Loan Limitation	17,662	1,042
	Obligation Limitation	195,437	11,531
	Outlays	1,617,224	95,416
Department of Transportation			
Federal Highway Administration			
Access highways to public recreation areas on certain lakes			
69 0503 0 1 401	Budget Authority	1,861	110
	Outlays	372	22
Motor carrier safety			
69 0552 0 1 401	Budget Authority	24,056	1,419
	Outlays	20,448	1,206
Railroad-highway crossings demonstration projects			
69 0557 0 1 401	Budget Authority	2,706	160
	Outlays	541	32
Waste isolation pilot project			
69 0562 0 1 401	Budget Authority	16,155	953
	Outlays	3,231	191
Expressway gap closing demonstration project			
69 0563 0 1 401	Budget Authority	7,969	470
	Outlays	1,594	94
Trust fund share of other highway programs			
69 8009 0 7 401	Budget Authority	5,411	319
	Outlays	1,082	64
Baltimore-Washington Parkway			
69 8014 0 7 401	Budget Authority	14,849	876
	Outlays	2,970	175
Highway safety research and development			
69 8017 0 7 401	Budget Authority	6,929	409
	Outlays	1,386	82
Highway-related safety grants			
69 8019 0 7 401	401(C) Authority	10,000	590
	Obligation Limitation	9,800	578
	Outlays	1,960	116
Motor carrier safety grants			
69 8048 0 7 401	401(C) Authority	60,000	3,540
	Obligation Limitation	48,966	2,889
	Outlays	17,138	1,011
Federal-aid highways			
69 8083 0 7 401	401(C) Authority	13,754,000	811,486
	401(C) Authority - Off. Coll.	1,500	89
	Obligation Limitation	12,278,000	724,402
	Outlays	2,117,500	124,933
Right-of-way revolving fund (trust revolving fund)			
69 8402 0 8 401	Direct Loan Limitation	47,366	2,795

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Miscellaneous appropriations			
69 9911 0 1 401	Budget Authority	12,473	736
	Outlays	2,495	147
Miscellaneous highway trust funds			
69 9972 0 7 401	Budget Authority	43,753	2,581
	Outlays	8,751	516
National Highway Traffic Safety Administration			
Operations and research			
69 0650 0 1 401	Budget Authority	65,589	3,870
	Outlays	42,633	2,515
Operations and research (trust fund share)			
69 8016 0 7 401	Budget Authority	31,803	1,876
	Outlays	20,672	1,220
Highway traffic safety grants			
69 8020 0 7 401	401(C) Authority	162,467	9,586
	Obligation Limitation	133,879	7,899
	Outlays	53,552	3,160
Federal Railroad Administration			
Northeast corridor improvement program			
69 0123 0 1 401	Budget Authority	27,717	1,635
	Outlays	2,772	164
Office of the Administrator			
69 0700 0 1 401	Budget Authority	23,983	1,415
	Outlays	18,520	1,093
Railroad safety			
69 0702 0 1 401	Budget Authority	29,539	1,743
	Outlays	23,631	1,394
Grants to National Railroad Passenger Corporation			
69 0704 0 1 401	Budget Authority	605,194	35,706
	Outlays	544,675	32,136
Railroad safety research and development			
69 0745 0 1 401	Budget Authority	9,689	572
	Outlays	5,813	343
Regional rail reorganization program			
69 4100 0 3 401	401(C) Authority	540	32
	Outlays	540	32
Urban Mass Transportation Administration			
Administrative expenses			
69 1120 0 1 401	Budget Authority	33,696	1,988
	Outlays	30,326	1,789
Research, training, and human resources			
69 1121 0 1 401	Budget Authority	12,730	751
	Outlays	3,819	225
Interstate transfer grants-transit			
69 1127 0 1 401	Budget Authority	128,687	7,593
	Outlays	19,303	1,139
Washington metro			
69 1128 0 1 401	Budget Authority	188,081	11,097
	Outlays	9,404	555
Formula grants			
69 1129 0 1 401	Budget Authority	1,809,384	106,754
	Outlays	689,549	40,683
Discretionary grants			
69 8191 0 7 401	401(C) Authority	1,250,000	73,750
	Obligation Limitation	1,177,981	69,501
	Outlays	105,649	6,233
Federal Aviation Administration			
Operations			
69 1301 0 1 402	Budget Authority	2,455,381	144,867
	401(C) Authority - Off. Coll.	9,100	537
	Outlays	2,198,195	129,694
Headquarters administration			
69 1302 0 1 402	Budget Authority	37,576	2,217
	Outlays	31,940	1,884
Aircraft purchase loan guarantee program			
69 1399 0 1 402	Budget Authority	1,373	81
	Outlays	1,373	81
Trust fund share of FAA operations			
69 8104 0 7 402	Budget Authority	873,187	51,518
	401(C) Authority	750	44
	Outlays	873,887	51,559
Grants-in-aid for airports (Airport and airway trust fund)			
69 8106 0 7 402	401(C) Authority	1,700,000	100,300
	Obligation Limitation	1,322,011	77,999
	Outlays	198,302	11,700

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Facilities and equipment (Airport and airway trust fund)			
69 8107 0 7 402	Budget Authority	1,155,991	68,203
	401(C) Authority - Off. Coll.	2,821	166
	Outlays	95,300	5,622
Research, engineering and development (Airport and airway trust fund)			
69 8108 0 7 402	Budget Authority	160,565	9,473
	401(C) Authority - Off. Coll.	400	24
	Outlays	104,767	6,182
Coast Guard			
Operating expenses			
69 0201 0 1 403	Budget Authority	1,865,174	110,045
	401(C) Authority - Off. Coll.	4,000	236
	Outlays	1,583,109	93,404
Acquisition, construction, and improvements			
69 0240 0 1 403	Budget Authority	257,623	15,200
	Outlays	28,339	1,672
Retired pay			
69 0241 0 1 403	401(C) Authority	37,817	2,231
	Outlays	34,035	2,008
Reserve training			
69 0242 0 1 403	Budget Authority	66,620	3,931
	Outlays	57,959	3,420
Research, development, test, and evaluation			
69 0243 0 1 403	Budget Authority	19,930	1,176
	Outlays	6,776	400
Alteration of bridges			
69 0244 0 1 403	Budget Authority	979	58
	Outlays	225	13
Offshore oil pollution compensation fund			
69 5167 0 2 304	Obligation Limitation	59,394	3,504
Pollution fund			
69 5168 0 2 304	401(C) Authority	5,300	313
	Outlays	1,590	94
Deepwater port liability fund			
69 5170 0 2 304	Obligation Limitation	49,495	2,920
Boat safety			
69 8149 0 7 403	Budget Authority	46,193	2,725
	Outlays	30,485	1,798
Maritime Administration			
Operations and training			
69 1750 0 1 403	Budget Authority	79,288	4,678
	Outlays	67,395	3,976
Federal ship financing fund			
69 4301 0 3 403	401(C) Other - incl. ob. limit	3,820	225
	Outlays	3,438	203
Saint Lawrence Seaway Development Corporation			
Saint Lawrence Seaway Development Corporation			
69 4089 0 3 403	401(C) Authority - Off. Coll.	800	47
	Obligation Limitation	2,117	125
	Outlays	2,831	167
Operations and maintenance			
69 8003 0 7 403	Budget Authority	11,351	670
	Outlays	11,351	670
Office of the Inspector General			
Salaries and expenses			
69 0130 0 1 407	Budget Authority	29,518	1,742
	Outlays	25,504	1,505
Research and Special Programs Administration			
Research and special programs			
69 0104 0 1 407	Budget Authority	13,501	797
	Outlays	8,911	526
Pipeline safety			
69 5172 0 2 407	Budget Authority	8,954	528
	Outlays	8,891	525
Office of the Secretary			
Salaries and expenses			
69 0102 0 1 407	Budget Authority	38,017	2,243
	Outlays	34,215	2,019
Transportation, planning, research and development			
69 0142 0 1 407	Budget Authority	5,238	309
	Outlays	2,079	123
Payments to air carriers, DOT			
69 0150 0 1 402	Budget Authority	24,827	1,465
	Outlays	19,862	1,172

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Working capital fund			
69 4520 0 4 407	Budget Authority	1,884	111
	Outlays	1,884	111
TOTAL FOR Department of Transportation			
	Budget Authority	10,255,424	605,070
	401(C) Authority	16,980,874	1,001,872
	401(C) Authority - Off. Coll.	18,621	1,099
	401(C) Other - incl. ob. limit	3,820	225
	Direct Loan Limitation	47,366	2,795
	Obligation Limitation	15,081,643	889,817
	Outlays	9,182,969	541,798
General Services Administration			
Real Property Activities			
Federal buildings fund			
47 4542 0 4 804	401(C) Authority - Off. Coll.	13,254	782
	Outlays	13,254	782
Personal Property Activities			
Federal supply service			
47 0116 0 1 804	Budget Authority	73,489	4,336
	Outlays	71,284	4,206
Expenses of transportation audit contracts			
47 5246 0 2 804	401(C) Other - incl. ob. limit	15,000	885
	Outlays	15,000	885
Information Resources Management Service			
Operating expenses, information resources management service			
47 0900 0 1 804	Budget Authority	32,911	1,942
	Outlays	27,974	1,650
Federal Property Resources Activities			
Operating expenses, federal property resources service			
47 0533 0 1 804	Budget Authority	12,671	748
	Outlays	8,046	475
Real property relocation			
47 0535 0 1 804	Budget Authority	5,210	307
	Outlays	2,605	154
Expenses, disposal of surplus real and related personal property			
47 5254 0 2 804	401(C) Other - incl. ob. limit	3,960	234
	Outlays	2,376	140
General Activities			
Allowances and office staff for former Presidents			
47 0105 0 1 802	Budget Authority	1,256	74
	Outlays	1,130	67
Office of Inspector General			
47 0108 0 1 804	Budget Authority	25,752	1,519
	Outlays	23,434	1,383
General management and administration, salaries and expenses			
47 0110 0 1 804	Budget Authority	129,258	7,626
	Outlays	103,406	6,101
Consumer information center fund			
47 4549 0 3 376	Budget Authority	1,337	79
	401(C) Authority - Off. Coll.	382	23
	Obligation Limitation	1,727	102
	Outlays	577	35
TOTAL FOR General Services Administration			
	Budget Authority	281,884	16,631
	401(C) Authority - Off. Coll.	13,636	805
	401(C) Other - incl. ob. limit	18,960	1,119
	Obligation Limitation	1,727	102
	Outlays	269,086	15,878
Department of Housing and Urban Development			
Housing Programs			
Housing counseling assistance			
86 0156 0 1 506	Budget Authority	3,501	207
Subsidized housing programs (Community development)			
86 0164 0 1 451	Budget Authority	214,341	12,647
	Outlays	20,840	1,230
Subsidized housing programs (Housing assistance)			
86 0164 0 1 604	Budget Authority	8,090,390	477,333
	Outlays	17,780	1,049
Congregate services program			
86 0178 0 1 604	Budget Authority	4,401	260
Supportive housing demonstration program			
86 0188 0 1 604	Budget Authority	66,850	3,944
	Outlays	1,340	79
Nonprofit sponsor assistance			
86 4042 0 3 604	Direct Loan Limitation	1,000	59
	Outlays	236	14

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Federal Housing Administration fund			
86 4070 0 3 371	401(C) Authority - Off. Coll.	541,682	31,959
	401(C) Other - incl. ob. limit	373,174	22,017
	Direct Loan Limitation	82,601	4,873
	Guaranteed Loan Limitation	100,032,000	5,901,888
	Outlays	956,983	56,461
Housing for the elderly or handicapped fund			
86 4115 0 3 371	Direct Loan Limitation	589,540	34,783
Interstate land sales			
86 5270 0 2 376	401(C) Authority	625	37
	Outlays	625	37
Manufactured home inspection and monitoring			
86 5271 0 2 376	401(C) Authority	5,602	331
	Outlays	3,877	229
Public and Indian Housing Programs			
Payments for operation of low income housing projects			
86 0163 0 1 604	Budget Authority	1,510,900	89,143
	Outlays	695,010	41,006
Government National Mortgage Association			
Guarantees of mortgage-backed securities			
86 4238 0 3 371	401(C) Authority - Off. Coll.	18,785	1,108
	Guaranteed Loan Limitation	150,048,000	8,852,832
	Outlays	16,363	965
Community Planning and Development			
Community development grants			
86 0162 0 1 451	Budget Authority	3,000,960	177,057
	Guaranteed Loan Limitation	150,048	8,853
	Outlays	120,038	7,082
Urban development action grants			
86 0170 0 1 451	Budget Authority	225,072	13,279
Urban homesteading			
86 0171 0 1 451	Budget Authority	15,005	885
	Outlays	15,005	885
Assistance for solar and conservation improvements			
86 0179 0 1 272	Budget Authority	1,768	104
	Outlays	35	2
Emergency shelter grants program			
86 0181 0 1 604	Budget Authority	8,340	492
	Outlays	4,170	246
Rehabilitation loan fund			
86 4036 0 3 451	401(C) Authority - Off. Coll.	33,046	1,950
	Direct Loan Limitation	65,000	3,835
	Outlays	52,546	3,101
Policy Development and Research			
Research and technology			
86 0108 0 1 451	Budget Authority	17,206	1,015
	Outlays	5,162	305
Fair Housing and Equal Opportunity			
Fair housing assistance			
86 0144 0 1 751	Budget Authority	5,002	295
	Outlays	2,001	118
Management and Administration			
Salaries and expenses, Including transfer of funds (Community developmen			
86 0143 0 1 451	Budget Authority	184,907	10,910
	Outlays	154,397	9,109
Salaries and expenses, Including transfer of funds (Housing assistance)			
86 0143 0 1 604	Budget Authority	108,893	6,425
	Outlays	94,410	5,570
Salaries and expenses, Including transfer of funds (Federal law enforcem			
86 0143 0 1 751	Budget Authority	31,528	1,860
	Outlays	25,222	1,488
TOTAL FOR Department of Housing and Urban Development			
	Budget Authority	13,489,064	795,856
	401(C) Authority	6,227	368
	401(C) Authority - Off. Coll.	593,513	35,017
	401(C) Other - incl. ob. limit	373,174	22,017
	Direct Loan Limitation	738,141	43,550
	Guaranteed Loan Limitation	250,230,048	14,763,573
	Outlays	2,186,040	128,976
National Aeronautics and Space Administration			
National Aeronautics and Space Administration			
Research and program management (Space flight)			
80 0103 0 1 253	Budget Authority	898,332	53,002
	401(C) Authority - Off. Coll.	5,000	295
	Outlays	740,734	43,703

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Research and program management (Space science, applications, and techno			
80 0103 0 1 254	Budget Authority	550,588	32,485
	Outlays	497,732	29,366
Research and program management (Supporting space activities)			
80 0103 0 1 255	Budget Authority	68,084	4,017
	Outlays	49,020	2,892
Research and program management (Air transportation)			
80 0103 0 1 402	Budget Authority	337,564	19,916
	Outlays	303,808	17,925
Space flight, control, and data communications			
80 0105 0 1 250	401(C) Authority - Off. Coll.	8,368	494
	Outlays	8,368	494
Space flight, control, and data communications (Space flight)			
80 0105 0 1 253	Budget Authority	3,046,808	179,762
	Outlays	2,041,361	120,440
Space flight, control, and data communications (Supporting space activit			
80 0105 0 1 255	Budget Authority	921,545	54,371
	Outlays	478,282	28,219
Construction of facilities (Space flight)			
80 0107 0 1 253	Budget Authority	17,922	1,057
	Outlays	1,721	102
Construction of facilities (Space science, applications, and technology)			
80 0107 0 1 254	Budget Authority	8,961	529
	Outlays	547	32
Construction of facilities (Supporting space activities)			
80 0107 0 1 255	Budget Authority	114,278	6,742
	Outlays	9,599	566
Construction of facilities (Air transportation)			
80 0107 0 1 402	Budget Authority	44,598	2,631
	Outlays	223	13
Research and development (Space flight)			
80 0108 0 1 253	Budget Authority	927,067	54,697
	401(C) Authority - Off. Coll.	5,781	341
	Outlays	456,905	26,957
Research and development (Space science, applications, and technology)			
80 0108 0 1 254	Budget Authority	1,993,815	117,635
	Outlays	939,087	55,406
Research and development (Supporting space activities)			
80 0108 0 1 255	Budget Authority	18,652	1,100
	Outlays	11,135	657
Research and development (Air transportation)			
80 0108 0 1 402	Budget Authority	376,214	22,197
	Outlays	215,947	12,741
TOTAL FOR National Aeronautics and Space Administration			
	Budget Authority	9,324,428	550,141
	401(C) Authority - Off. Coll.	19,149	1,130
	Outlays	5,754,469	339,513
Office of Personnel Management			
Office of Personnel Management			
Salaries and expenses			
24 0100 0 1 805	Budget Authority	107,572	6,347
	Outlays	102,193	6,029
Government payment for annuitants, employees health benefits			
24 0206 0 1 551	401(C) Authority	2,374,414	140,090
Revolving fund			
24 4571 0 4 805	401(C) Authority - Off. Coll.	1,051	62
	Outlays	1,051	62
Civil service retirement and disability fund			
24 8135 0 7 602	Obligation Limitation	61,400	3,623
	Outlays	61,400	3,623
Employees life insurance fund			
24 8424 0 8 602	401(C) Other - incl. ob. limit	1,050	62
	Outlays	1,050	62
Employees health benefits fund			
24 8440 0 8 551	Obligation Limitation	11,183	660
	Outlays	10,650	628
Retired employees health benefits fund			
24 8445 0 8 551	Obligation Limitation	132	8
	Outlays	126	7
TOTAL FOR Office of Personnel Management			
	Budget Authority	107,572	6,347
	401(C) Authority	2,374,414	140,090
	401(C) Authority - Off. Coll.	1,051	62
	401(C) Other - incl. ob. limit	1,050	62
	Obligation Limitation	72,715	4,291
	Outlays	176,470	10,411

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Small Business Administration			
Small Business Administration			
Salaries and expenses			
73 0100 0 1 376	Budget Authority	238,193	14,053
	Outlays	174,357	10,288
Pollution control equipment contract guarantee revolving fund			
73 4147 0 3 376	Guaranteed Loan Limitation	78,000	4,602
Disaster loan fund			
73 4153 0 3 453	Direct Loan Limitation	326,000	19,234
	Outlays	147,000	8,673
Business loan and investment fund			
73 4154 0 3 376	Budget Authority	105,664	6,234
	Direct Loan Limitation	88,000	5,192
	Guaranteed Loan Limitation	3,890,000	229,510
	Outlays	69,379	4,093
Surety bond guarantees revolving fund			
73 4156 0 3 376	Guaranteed Loan Limitation	1,301,000	76,759
TOTAL FOR Small Business Administration			
	Budget Authority	343,857	20,287
	Direct Loan Limitation	414,000	24,426
	Guaranteed Loan Limitation	5,269,000	310,871
	Outlays	390,736	23,054
Veterans Administration			
Veterans Administration			
Construction, major projects			
36 0110 0 1 703	Budget Authority	419,822	24,769
	Outlays	8,816	520
Construction, minor projects			
36 0111 0 1 703	Budget Authority	121,578	7,173
	Outlays	47,397	2,797
Readjustment benefits			
36 0137 0 1 702	401(C) Authority	559,606	33,017
	Outlays	524,857	30,967
Grants to the Republic of the Philippines			
36 0144 0 1 703	Budget Authority	500	30
General operating expenses			
36 0151 0 1 705	Budget Authority	818,563	48,295
	Outlays	753,078	44,432
Medical administration and miscellaneous operating expenses			
36 0152 0 1 703	Budget Authority	49,223	2,904
	Outlays	36,917	2,178
Burial benefits and miscellaneous assistance			
36 0155 0 1 701	401(C) Authority	123,000	7,257
	Outlays	122,835	7,247
Medical care			
36 0160 0 1 703	Budget Authority	909,034	53,634
	Budget Authority - Spec. Rules	196,039	196,039
	401(C) Authority - Spec. Rules	477	477
	Outlays	989,133	215,394
Medical and prosthetic research			
36 0161 0 1 703	Budget Authority	203,699	12,018
	Outlays	166,218	9,807
Grants for construction of state extended care facilities			
36 0181 0 1 703	Budget Authority	42,013	2,479
Parking garage revolving fund			
36 4538 0 3 703	Budget Authority	4,101	242
	401(C) Authority - Off. Coll.	875	52
	Outlays	1,080	64
TOTAL FOR Veterans Administration			
	Budget Authority	2,568,533	151,544
	Budget Authority - Spec. Rules	196,039	196,039
	401(C) Authority	682,606	40,274
	401(C) Authority - Off. Coll.	875	52
	401(C) Authority - Spec. Rules	477	477
	Outlays	2,650,331	313,406
Other Independent Agencies			
ACTION			
Operating expenses			
44 0103 0 1 506	Budget Authority	170,715	10,072
	Outlays	103,795	6,124
Administrative Conference of the United States			
Salaries and expenses			
95 1700 0 1 751	Budget Authority	1,969	116
	Outlays	1,575	93

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Advisory Committee on Federal Pay			
Salaries and expenses			
95 1800 0 1 805	Budget Authority	211	12
	Outlays	169	10
Advisory Council on Historic Preservation			
Salaries and expenses			
95 2300 0 1 303	Budget Authority	1,817	107
	Outlays	1,744	103
American Battle Monuments Commission			
Salaries and expenses			
74 0100 0 1 705	Budget Authority	13,116	774
	Outlays	9,444	557
Architectural and Transportation Barriers Compliance Board			
Salaries and expenses			
95 3200 0 1 751	Budget Authority	1,995	118
	Outlays	1,476	87
Arms Control and Disarmament Agency			
Arms control and disarmament activities			
94 0100 0 1 153	Budget Authority	31,676	1,869
	Outlays	21,001	1,239
Barry Goldwater Scholarship and Excellence in Education Foundation			
Barry Goldwater Scholarship and Excellence in Education Foundation			
95 8281 0 7 502	401(C) Other - incl. ob. limit	1,085	64
	Outlays	720	42
Board for International Broadcasting			
Grants and expenses			
95 1145 0 1 154	Budget Authority	192,786	11,374
	Outlays	185,075	10,919
Israel relay station			
95 1146 0 1 154	Budget Authority	35,432	2,090
	Outlays	25,582	1,509
Commission of Fine Arts			
Salaries and expenses			
95 2600 0 1 451	Budget Authority	468	28
	Outlays	429	25
National capital arts and cultural affairs			
95 2602 0 1 503	Budget Authority	4,689	277
	Outlays	4,689	277
Commission on Civil Rights			
Salaries and expenses			
95 1900 0 1 751	Budget Authority	6,016	355
	Outlays	5,114	302
Committee for Purchase from the Blind and other Severely Handicapped			
Salaries and expenses			
95 2000 0 1 505	Budget Authority	897	53
	Outlays	851	50
Commodity Futures Trading Commission			
Commodity Futures Trading Commission			
95 1400 0 1 376	Budget Authority	34,689	2,047
	Outlays	30,179	1,781
Consumer Product Safety Commission			
Salaries and expenses			
61 0100 0 1 554	Budget Authority	34,553	2,039
	401(C) Authority - Off. Coll.	10	1
	Outlays	29,380	1,734
Corporation for Public Broadcasting			
Public broadcasting fund			
20 0151 0 1 503	401(C) Authority	228,000	13,452
	Outlays	228,000	13,452
District of Columbia			
Federal payment to the District of Columbia			
20 1700 0 1 806	Budget Authority	573,100	33,813
	401(C) Authority	20,000	1,180
	Outlays	574,057	33,869
Equal Employment Opportunity Commission			
Salaries and expenses			
45 0100 0 1 751	Budget Authority	189,936	11,206
	Outlays	167,713	9,895
Export-Import Bank of the United States			
Export-Import Bank of the United States			
83 4027 0 3 155	Budget Authority	114,620	6,763
	Direct Loan Limitation	718,980	42,420
	Guaranteed Loan Limitation	10,420,000	614,780
	Obligation Limitation	20,630	1,217
	Outlays	125,630	7,412

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Farm Credit Administration			
Revolving fund for administrative expenses			
78 4131 0 3 351	Obligation Limitation	37,022	2,184
	Outlays	37,022	2,184
Federal Communications Commission			
Salaries and expenses			
27 0100 0 1 376	Budget Authority	105,376	6,217
	Outlays	98,527	5,813
Federal Election Commission			
Salaries and expenses			
95 1600 0 1 808	Budget Authority	14,979	884
	Outlays	13,481	795
Federal Emergency Management Agency			
Salaries and expenses (Defense-related activities)			
58 0100 0 1 054	Budget Authority	75,092	4,430
	Outlays	67,582	3,987
Salaries and expenses (Disaster relief and insurance)			
58 0100 0 1 453	Budget Authority	57,964	3,420
	Outlays	52,168	3,078
Emergency management planning and assistance (Defense-related activities			
58 0101 0 1 054	Budget Authority	256,657	15,143
	Outlays	141,162	8,329
Emergency management planning and assistance (Disaster relief and insura			
58 0101 0 1 453	Budget Authority	27,284	1,610
	Outlays	15,006	885
Emergency food distribution and shelter program			
58 0103 0 1 605	Budget Authority	118,788	7,008
	Outlays	118,788	7,008
Disaster relief			
58 0104 0 1 453	Budget Authority	125,040	7,377
	Outlays	50,016	2,951
Federal Labor Relations Authority			
Salaries and expenses			
54 0100 0 1 805	Budget Authority	18,588	1,097
	Outlays	17,101	1,009
Federal Maritime Commission			
Salaries and expenses			
65 0100 0 1 403	Budget Authority	14,357	847
	Outlays	12,921	762
Federal Mediation and Conciliation Service			
Salaries and expenses			
93 0100 0 1 505	Budget Authority	25,928	1,530
	Outlays	23,776	1,403
Federal Mine Safety and Health Review Commission			
Salaries and expenses			
95 2800 0 1 554	Budget Authority	4,130	244
	Outlays	3,882	229
Federal Trade Commission			
Salaries and expenses			
29 0100 0 1 376	Budget Authority	70,052	4,133
	Outlays	64,098	3,782
TOTAL FOR Other Independent Agencies			
	Budget Authority	2,322,920	137,053
	401(C) Authority	248,000	14,632
	401(C) Authority - Off. Coll.	10	1
	401(C) Other - incl. ob. limit	1,085	64
	Direct Loan Limitation	718,980	42,420
	Guaranteed Loan Limitation	10,420,000	614,780
	Obligation Limitation	57,652	3,401
	Outlays	2,232,153	131,695
Other Independent Agencies			
Harry S Truman Scholarship Foundation			
Harry S Truman memorial scholarship trust fund			
95 8296 0 7 502	401(C) Other - incl. ob. limit	3,010	178
	Outlays	3,010	178
Christopher Columbus Quincentennary Jubilee Commission			
Salaries and expenses			
76 0800 0 1 376	Budget Authority	224	13
	Outlays	201	12
Commission on the Bicentennial of the U.S. Constitution			
Salaries and expenses			
76 0054 0 1 808	Budget Authority	21,959	1,296
	Outlays	4,392	259

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Franklin Delano Roosevelt Memorial Commission			
Salaries and expenses			
76 0700 0 1 808	Budget Authority	29	2
	Outlays	24	1
Intelligence Community Staff			
Intelligence community staff			
95 0400 0 1 054	Budget Authority	24,327	1,800
	Outlays	15,812	1,170
Advisory Commission on Intergovernmental Relations			
Salaries and expenses			
55 0100 0 1 808	Budget Authority	1,453	86
	Outlays	1,237	73
Appalachian Regional Commission			
Appalachian regional development programs			
46 0200 0 1 452	Budget Authority	110,700	6,531
	Outlays	7,976	471
Delaware River Basin Commission			
Salaries and expenses			
46 0100 0 1 301	Budget Authority	205	12
	Outlays	191	11
Contribution to Delaware River Basin Commission			
46 0102 0 1 301	Budget Authority	263	16
	Outlays	263	16
Interstate Commission on the Potomac River Basin			
Contribution to Interstate Commission on the Potomac River Basin			
46 0446 0 1 304	Budget Authority	379	22
	Outlays	379	22
Susquehanna River Basin Commission			
Salaries and expenses			
46 0500 0 1 301	Budget Authority	192	11
	Outlays	181	11
Contribution to Susquehanna River Basin Commission			
46 0501 0 1 301	Budget Authority	262	15
	Outlays	262	15
International Trade Commission			
Salaries and expenses			
34 0100 0 1 153	Budget Authority	36,651	2,162
	Outlays	31,557	1,862
Interstate Commerce Commission			
Salaries and expenses			
30 0100 0 1 401	Budget Authority	46,873	2,766
	Outlays	42,186	2,489
James Madison Memorial Fellowship Foundation			
James Madison Memorial Fellowship Foundation			
95 0200 0 1 502	401(C) Authority	10,000	590
	Outlays	10,000	590
James Madison Memorial Fellowship Trust Fund			
95 8282 0 7 502	401(C) Other - incl. ob. limit	250	15
	Outlays	250	15
Japan-United States Friendship Commission			
Japan-United States friendship trust fund			
95 8025 0 7 154	Budget Authority	1,253	74
	Outlays	1,253	74
Legal Services Corporation			
Payment to the Legal Services Corporation			
20 0501 0 1 752	Budget Authority	318,331	18,782
	Outlays	277,266	16,359
Marine Mammal Commission			
Salaries and expenses			
95 2200 0 1 302	Budget Authority	1,006	59
	Outlays	893	53
Merit Systems Protection Board			
Salaries and expenses			
41 0100 0 1 805	Budget Authority	22,170	1,308
	Outlays	18,845	1,112
Office of the Special Counsel			
41 0101 0 1 805	Budget Authority	4,944	292
	Outlays	4,544	268
National Archives and Records Administration			
Operating expenses			
88 0300 0 1 804	Budget Authority	122,019	7,199
	Outlays	97,615	5,759
National archives trust fund			
88 8436 0 8 804	401(C) Authority - Off. Coll.	4,343	256
	Outlays	4,343	256

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Capital Planning Commission			
Salaries and expenses			
95 2500 0 1 451	Budget Authority	3,118	184
	Outlays	2,869	169
National Commission on Libraries and Information Science			
Salaries and expenses			
95 2700 0 1 503	Budget Authority	758	45
	Outlays	674	40
National Council on the Handicapped			
Salaries and expenses			
95 3500 0 1 506	Budget Authority	940	55
	Outlays	726	43
National Endowment for the Arts			
National endowment for the arts: Grants and administration			
59 0100 0 1 503	Budget Authority	174,980	10,324
	Outlays	58,968	3,479
National Endowment for the Humanities			
National endowment for the humanities: Grants and administration			
59 0200 0 1 503	Budget Authority	146,543	8,646
	Outlays	67,556	3,986
Institute of Museum Services			
Institute of Museum Services: Grants and administration			
59 0300 0 1 503	Budget Authority	22,878	1,350
	Outlays	5,903	348
National Institute of Building Sciences			
National Institute of Building Sciences trust fund			
95 8222 0 7 376	401(C) Other - incl. ob. limit	521	31
	Outlays	521	31
National Labor Relations Board			
Salaries and expenses			
63 0100 0 1 505	Budget Authority	140,904	8,313
	Outlays	132,591	7,823
National Mediation Board			
Salaries and expenses			
95 2400 0 1 505	Budget Authority	7,415	437
	Outlays	5,902	348
National Science Foundation			
Research and related activities			
49 0100 0 1 251	Budget Authority	1,515,247	89,400
	Outlays	754,593	44,521
Science and engineering education activities			
49 0106 0 1 251	Budget Authority	145,046	8,558
	Outlays	21,612	1,275
U.S. Antarctic program			
49 0200 0 1 251	Budget Authority	130,042	7,672
	Outlays	64,371	3,798
National Transportation Safety Board			
Salaries and expenses			
95 0310 0 1 407	Budget Authority	25,356	1,496
	Outlays	22,820	1,346
Neighborhood Reinvestment Corporation			
Payment to the Neighborhood Reinvestment Corporation			
82 1300 0 1 451	Budget Authority	19,506	1,151
	Outlays	19,506	1,151
Nuclear Regulatory Commission			
Salaries and expenses			
31 0200 0 1 276	Budget Authority	420,000	24,780
	Outlays	126,000	7,434
TOTAL FOR Other Independent Agencies			
	Budget Authority	3,465,973	204,857
	401(C) Authority	10,000	590
	401(C) Authority - Off. Coll.	4,343	256
	401(C) Other - incl. ob. limit	3,781	224
	Outlays	1,807,292	106,868
Other Independent Agencies			
Occupational Safety and Health Review Commission			
Salaries and expenses			
95 2100 0 1 554	Budget Authority	6,218	367
	Outlays	5,783	341
Panama Canal Commission			
Panama Canal revolving fund			
95 4061 0 3 403	Obligation Limitation	50,287	2,967
	Outlays	47,773	2,819

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Pennsylvania Avenue Development Corporation			
Salaries and expenses			
42 0100 0 1 451	Budget Authority	2,657	157
	Outlays	2,152	127
Public development			
42 0102 0 1 451	Budget Authority	3,126	184
	Outlays	2,345	138
Land acquisition and development fund			
42 4084 0 3 451	401(C) Authority - Off. Coll.	3,000	177
	Outlays	3,000	177
Postal Service			
Payment to the Postal Service fund			
18 1001 0 1 372	Budget Authority	538,714	31,784
Postal Service			
18 4020 0 3 372	401(C) Authority	1,101,803	65,006
Railroad Retirement Board			
Railroad social security equivalent benefit account			
60 8010 0 7 601	Obligation Limitation	31,899	1,882
	Outlays	31,899	1,882
Rail Industry Pension Fund			
60 8011 0 7 601	Obligation Limitation	28,768	1,697
	Outlays	28,768	1,697
Supplemental Annuity Pension Fund			
60 8012 0 7 601	Obligation Limitation	2,309	136
	Outlays	2,309	136
Securities and Exchange Commission			
Salaries and expenses			
50 0100 0 1 376	Budget Authority	142,860	8,429
	Outlays	130,003	7,670
Selective Service System			
Salaries and expenses			
90 0400 0 1 054	Budget Authority	26,916	1,992
	Outlays	22,107	1,636
Smithsonian Institution			
Salaries and expenses			
33 0100 0 1 503	Budget Authority	212,714	12,550
	Outlays	187,826	11,082
Construction and improvements, National Zoological Park			
33 0129 0 1 503	Budget Authority	8,492	501
	Outlays	3,821	225
Repair and restoration of buildings			
33 0132 0 1 503	Budget Authority	20,063	1,184
	Outlays	8,025	473
Construction			
33 0133 0 1 503	Budget Authority	1,370	81
	Outlays	548	32
Salaries and expenses, National Gallery of Art			
33 0200 0 1 503	Budget Authority	39,428	2,326
	Outlays	33,790	1,994
Salaries and expenses, Woodrow Wilson International Center for Scholars			
33 0400 0 1 503	Budget Authority	4,230	250
	Outlays	2,597	153
Endowment challenge fund			
33 8188 0 7 503	401(C) Authority	60	4
	Outlays	60	4
Canal Zone biological area fund			
33 8190 0 7 503	401(C) Authority	150	9
	Outlays	117	7
TOTAL FOR Other Independent Agencies			
	Budget Authority	1,006,788	59,805
	401(C) Authority	1,102,013	65,019
	401(C) Authority - Off. Coll.	3,000	177
	Obligation Limitation	113,263	6,682
	Outlays	512,923	30,593
Other Independent Agencies			
Other Temporary Commissions			
State Justice Institute: Salaries and expenses			
48 0052 0 1 752	Budget Authority	11,450	676
	Outlays	3,092	182
Navajo and Hopi Indian Relocation Commission: Salaries and expenses			
48 1100 0 1 808	Budget Authority	26,373	1,556
	Outlays	16,615	980
Interagency Council on the Homeless			
48 1300 0 1 604	Budget Authority	792	47
	Outlays	792	47

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Commission for the Study of International Migration and Cooperative Econ			
48 1400 0 1 153	Budget Authority	914	54
	Outlays	823	49
National Commission to Prevent Infant Mortality			
48 1500 0 1 808	Budget Authority	769	45
	Outlays	749	44
Tennessee Valley Authority			
Tennessee Valley Authority fund (Energy supply)			
64 4110 0 3 271	401(C) Authority - Off. Coll.	94,900	5,599
	Outlays	83,512	4,927
Tennessee Valley Authority fund (Area and regional development)			
64 4110 0 3 452	Budget Authority	103,000	6,077
	Outlays	25,338	1,495
United States Holocaust Memorial Council			
Holocaust Memorial Council			
95 3300 0 1 808	Budget Authority	2,280	135
	Outlays	1,803	106
United States Information Agency			
Salaries and expenses			
67 0201 0 1 154	Budget Authority	653,085	38,532
	Outlays	515,284	30,402
East West Center			
67 0202 0 1 154	Budget Authority	20,840	1,230
	Outlays	19,694	1,162
Radio broadcasting to Cuba			
67 0208 0 1 154	Budget Authority	13,440	793
	Outlays	10,752	634
Educational and cultural exchange programs			
67 0209 0 1 154	Budget Authority	156,342	9,224
	Outlays	71,136	4,197
National Endowment for Democracy			
67 0210 0 1 154	Budget Authority	17,584	1,037
	Outlays	7,034	415
United States Institute of Peace			
United States Institute of Peace			
95 1300 0 1 153	Budget Authority	4,507	266
	Outlays	4,507	266
United States Sentencing Commission			
Salaries and expenses			
10 0938 0 1 752	Budget Authority	5,394	318
	Outlays	4,849	286
TOTAL FOR Other Independent Agencies			
	Budget Authority	1,016,770	59,990
	401(C) Authority - Off. Coll.	94,900	5,599
	Outlays	765,980	45,192
REPORT TOTAL			
	Budget Authority	376,684,142	25,651,870
	Budget Authority - Spec. Rules	224,592	224,592
	401(C) Authority	46,605,793	2,752,956
	401(C) Authority - Off. Coll.	2,545,259	150,170
	401(C) Other - incl. ob. limit	1,706,067	100,657
	401(C) Authority - Spec. Rules	1,567,108	1,567,108
	Direct Loan Limitation	20,368,459	1,201,740
	Direct Loan Floor	1,081,956	63,835
	Guaranteed Loan Limitation	281,907,246	16,632,529
	Guaranteed Loan Floor	970,398	57,253
	Obligation Limitation	24,459,940	1,443,138
	Unobligated Balances - Defense	39,871,286	2,950,475
	Outlays	232,627,876	17,077,797

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

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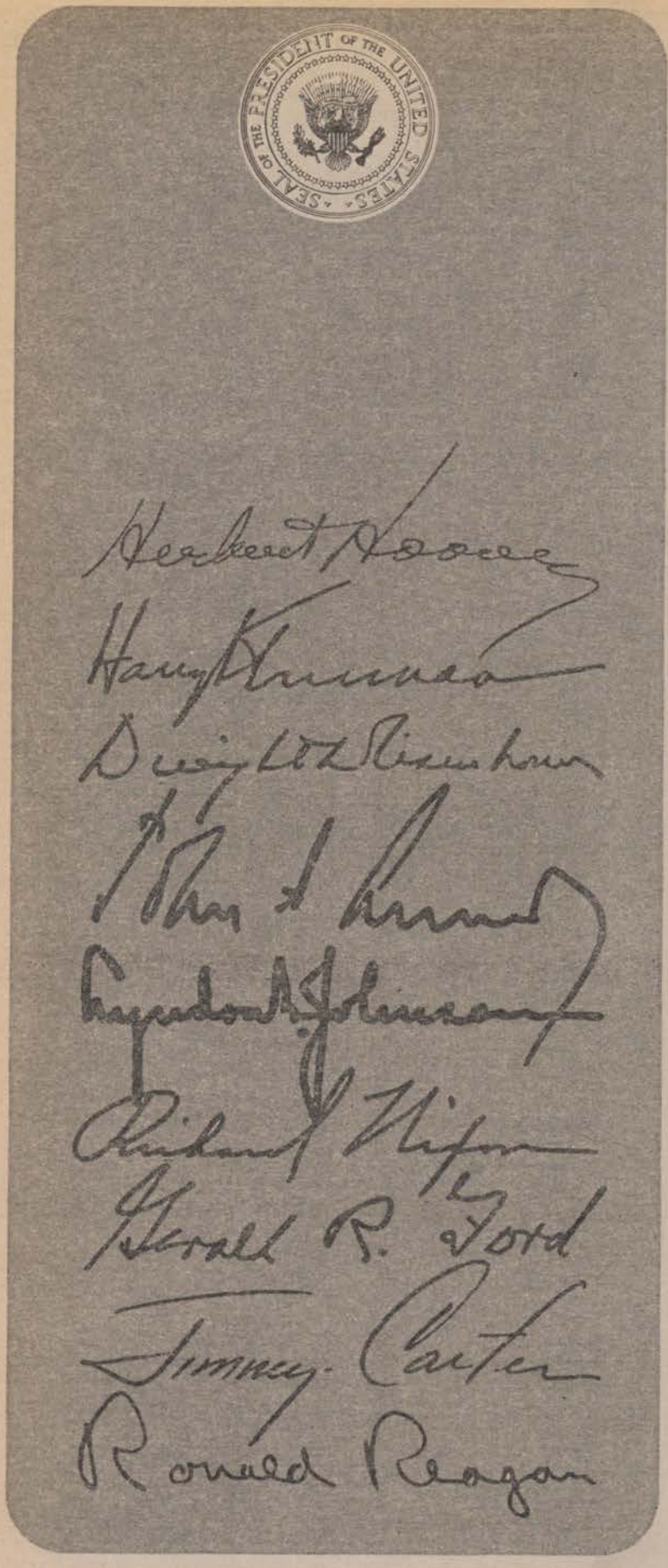

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